This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

+ *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.

+ *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.

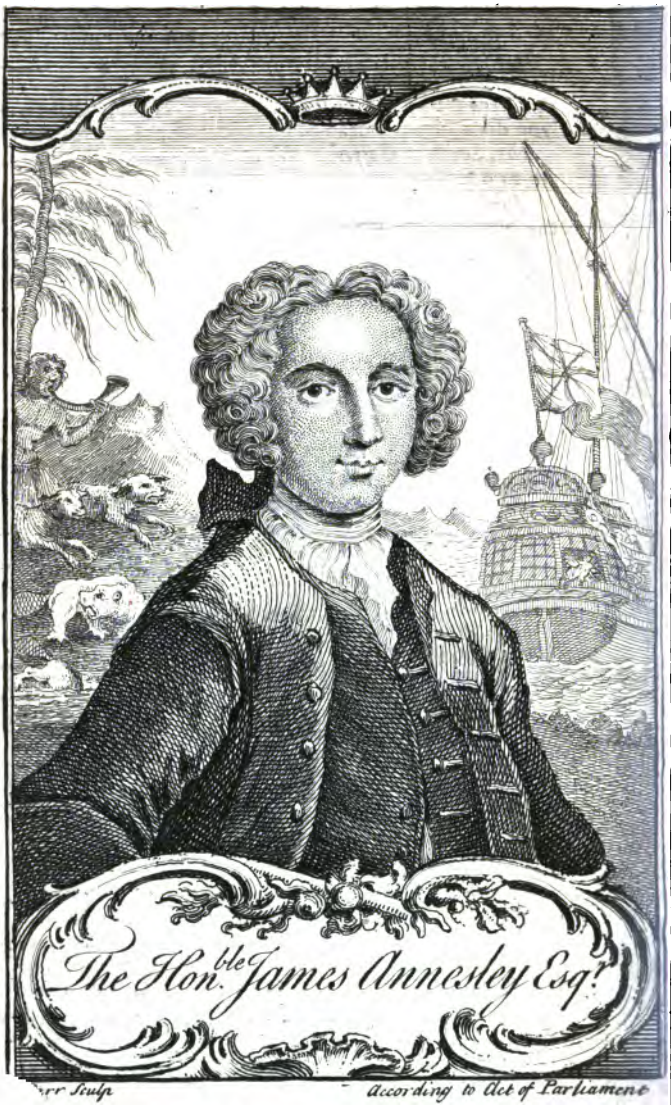
+ *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.

+ *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at `http://books.google.com/`

A.P
ACW
OBt


The Hon.ble James Annesley Esq.r
rr Sculp.
According to Act of Parliament

Rep. of T. E. 17 Flow. S. Ti. 1139

B. Smith

THE TRIAL at Bar

BETWEEN

CAMPBELL CRAIG, Lessee

OF

JAMES ANNESLEY, Esq;
Plaintiff,

And the RIGHT HONOURABLE

Richard Earl of *Anglesey*,
Defendant,

Before the Honourable the

BARONS *of the* EXCHEQUER,

AT THE

King's Court, *Dublin*, in *Trinity* Term,

In the 16th and 17th Years of the Reign of our Sovereign Lord GEORGE the Second, King of *Great-Britain*, &c. and in the Year of our Lord 1743.

LONDON:
Printed by and for the Proprietor, R. WALKER, in *Fleet-Lane*. MDCCXLIV.

1744

THE

TRIAL at Bar

BETWEEN

CAMPBELL CRAIG, Leſſee of

JAMES ANNESLEY, Eſq;
Plaintiff,

And the RIGHT HONOURABLE

Richard Earl of *Angleſey*,
Defendant,

Before the Barons of the Court of *Exchequer* in *Ireland*: Began on *Friday*, *November* 11, 1743. and by Adjournments continued until the 25th of the ſame Month inclufive.

BEFORE the Right Honourable *John Bowes*, Eſq; Lord Chief Baron; the Honourable *Richard Mountney*, Eſq; and the Honourable *Arthur Dawſon*, Eſq; Barons, in an Action of Treſpaſs and Ejectment for the Recovery of certain Lands in the County of *Meath*, by a Jury of the ſame County.

'The Court being sat, and the Jury impannelled, they having appeared at the Bar of the Court, were severally sworn as follows:

"*YOU shall well and truly try this Issue at Bar, "now depending here in Court, and true Verdict give "according to the Evidence.*"

Sir Thomas Taylor, Bart.
The Right Hon. *William Graham*, Esq;
Richard Wesley, Esq;
Hercules Langford Rowley, Esq;
Richard Gorges, Esq;
John Preston, Esq;
Nathaniel Preston, Esq;
Charles Hamilton, Esq;
Clotworthy Wade, Esq;
Thomas Shaw, Esq;
Gorges Lowther, Esq;
Joseph Ashe, Esq;

The Issue was as follow:

Pleas before the Barons of the Exchequer, at the King's Court, Dublin, *of the Term of the* Holy Trinity, *in the sixteenth and seventeenth Years of the Reign of our Sovereign Lord* George *the Second, now King of* Great-Britain, *and so forth, and in the Year of our Lord* 1743.

County of Meath to wit. BE it remember'd, that in this same Term *Campbell Craige*, Gent. a Debtor of our Lord the King that now is, came before the Barons of this Exchequer, by *Charles Caldwell* his Attorney, and brought here into this Court his Bill against the Right Honourable *Richard* Earl of *Anglesey*, of a Plea of Trespass and Ejectment of a Farm, the Tenor of which Bill follows in these Words; that is to say, County of *Meath: Campbell Craig*, Gent. a Debtor of our Lord the King that now is, comes before the Barons of this Exchequer, on the third Day of *June*, in this Term, by *Charles Caldwell* his Attorney; and by his Bill complains against the Right Honourable *Richard* Earl of *Anglesey*, present here in Court on the same Day

Day by *Tho. Burroughs* his Attorney, of a Plea of Treſpaſs and Ejectment of a Farm: For that whereas *J. Annesley*, Eſq; on the firſt Day of *May*, One thouſand ſeven hundred and forty two, at *Trim* in the County of *Meath*, demiſed to the ſaid *Campbell* thirty Meſſuages, thirty Toſts, fifty Cottages, two Mills, fifty Gardens, eight hundred Acres of Arable Land, three hundred Acres of Meadow, ſix hundred Acres of Paſture, fifty Acres of Furze and Heathy Ground, fifty Acres of Moory Ground, with the Appurtenances, in *Great Stamine*, otherwiſe, *Stameen*, *Little Stamine*, otherwiſe *Stameen*, *Little Donacarney*, *Shallon*, *Kilcarvan*, otherwiſe *Kilſharvan*, *Cruffey*, *Annagor*, otherwiſe *Annager*, and *Little Gaffney*, ſituate, lying, and being in the County of *Meath* aforeſaid: All which ſaid Premiſes were formerly the Eſtate of the Right Honourable *James* Earl of *Angleſey*, deceaſed, and lately the Eſtate of the Right Honourable *Arthur* Baron of *Altham*, alſo deceaſed: To have and to hold the ſaid demiſed Premiſes, with the Appurtenances, to him the ſaid *Campbell*, his Executors, Adminiſtrators, and Aſſigns, from the firſt Day of *May* aforeſaid, in the Year of our Lord aforeſaid, for the Term, Time, and Space of twenty one Years from thence next enſuing, and fully to be compleat and ended. And whereas alſo the Right Honourable *James* Earl of *Angleſey*, on the ſame firſt Day of *May* aforeſaid, in the Year of our Lord aforeſaid, at *Trim* aforeſaid, in the County of *Meath* aforeſaid, demiſed to the ſaid *Campbell* thirty Meſſuages, thirty Toſts, fifty Cottages, two Mills, fifty Gardens, eight hundred Acres of Arable Land, three hundred Acres of Meadow, ſix hundred Acres of Paſture, fifty Acres of Furze and Heathy Ground, fifty Acres of Moory Ground, with the Appurtenances, in *Great Stamine*, otherwiſe *Stameen*, *Little Stamine*, otherwiſe *Stameen*, *Little Donacarney*, *Shallon*, *Kilcarvan*, otherwiſe *Kilſharvan*, *Cruffey*, *Annagor*, otherwiſe *Annager*, and *Little Gaffney*, ſituate, lying, and being in the County of *Meath* aforeſaid; All which ſaid Premiſſes were formerly the Eſtate of the Right Hon. *James* Earl of *Angleſey* deceaſed, and lately the Eſtate of the Right Hon. *Arthur* Baron of *Altham*, alſo deceaſed: To have and to hold the ſaid demiſed Premiſſes with the Appurtenances, to him the ſaid *Campbell*, his

Executors,

Executors, Administrators and Assigns, from the first Day of *May* aforesaid, in the Year of our Lord aforesaid, for the Term, Time, and Space of Twenty-one Years from thence next ensuing, and fully to be compleat and ended. And whereas also the Honourable *James Annesley*, only Son and Heir of *Arthur*, late Baron *Altham* of *Altham* deceased, otherwise the Right Honourable *James* Baron *Altham* of *Altham*, on the same first Day of *May* aforesaid, in the Year of our Lord aforesaid, at *Trim* aforesaid, demised to the said *Campbell* thirty Messuages, thirty Tofts, fifty Cottages, two Mills, fifty Gardens, eight hundred Acres of Arable Land, three hundred Acres of Meadow, six hundred Acres of Pasture, fifty Acres of Furze and Heathy Ground, fifty Acres of Moory Ground, with the Appurtenances in *Great Stamine*, otherwise *Stameen*, *Little Stamine*, otherwise *Stameen*, *Little Donacarney*, *Shallon*, *Killcarvan*, otherwise *Killsharvan*, *Cruffey*, *Annagor*, otherwise *Annager*, and *Little Gaffney*; situate, lying, and being in the County of *Meath* aforesaid: All which said Premisses were formerly the Estate of the Right Honourable *James* Earl of *Angleſey* deceased, and lately the Estate of the Right Honourable *Arthur* Baron of *Altham*, also deceased; to have and to hold the said demised Premisses, with the Appurtenances, to him the said *Campbell*, his Executors, Administrators and Assigns, from the first Day of *May* aforesaid, in the Year of our Lord aforesaid, for the Term, Time, and Space of Twenty one Years from the first Day of *May* aforesaid, in the Year of our Lord aforesaid, for the Term, Time and Space of Twenty-one Years from thence next ensuing, and fully to be compleat and ended: By virtue of which said several Demises he, the said *Campbell*, afterwards, to wit, on the second Day of *May* aforesaid, in the Year of our Lord aforesaid, entered into the said demised Premises, with the Appurtenances, and was thereof possessed until the aforesaid *Richard* Earl of *Angleſey* afterwards, to wit, on the third Day of *May* aforesaid, in the Year of our Lord aforesaid, with Force and Arms, to wit, with Swords, Clubs, and so forth, entered into the said demised Premisses. with the Appurtenances, in and upon the Possession of the said *Campbell*, and ejected, expelled, and removed

moved him, the ſaid *Campbell*, from his ſaid Farm (his Term in the Premiſſes not being then or ſince determined) and the ſaid *Campbell* being ſo ejected from his ſaid Farm, he, the ſaid *Richard* Earl of *Angleſey*, hath ever ſince, and ſtill doth with-hold the Poſſeſſion thereof from him; and then and there did other Wrongs and Injuries to him, againſt the Peace of our ſaid Lord the King that now is, and ſo forth, and to the Damage of the ſaid *Campbell* one hundred Pounds Sterling; by Means whereof the ſaid *Campbell* is leſs able to pay the Debts he now owes to our ſaid Lord the King, at the Receipt of his ſaid Exchequer; and thereupon he brings his Suit, and ſo forth, pledges to proſecute *John Doe* and *Richard Roe*. To which the aforeſaid *Richard* Earl of *Angleſey*, by his ſaid Attorney, comes and defends the Force and Injury when, and ſo forth: And ſaith, That he is not guilty of the Treſpaſs and Ejectment aforeſaid, in Manner and Form as the ſaid *Campbel Craig* above againſt him hath declared, and of this he puts himſelf upon the Country. And the ſaid *Campbel Craig* doth likewiſe the ſame. Therefore let a Jury thereof be made, and the Sheriff of the County of *Meath* aforeſaid is commanded, that he cauſe to come here, and ſo forth.

The Council for the Defendant having confeſſed Leaſe, Entry, and Ouſter, Mr. Lill, *of Council for the Leſſor of the Plaintiff. opened the Declaration, in Subſtance as follows:*

THAT the Plaintiff had brought his Ejectment for thirty Meſſuages, fifty Cottages, two Mills, fifty Gardens, eight hundred Acres of Arable Land, three hundred Acres of Meadow, ſix hundred Acres of Paſture, fifty Acres of Furze and Heath Ground, fifty Acres of Moory Ground, with the Appurtenances, in *Great Stamine*, otherwiſe *Stameen*, *Little Stamine*, otherwiſe *Stameen*, *Little Donacarney*, *Shallon*, *Killcarvan*, otherwiſe *Killſharvan*, *Cruffey*, *Annagor*, otherwiſe *Arnager*, and *Little Gaffney*, ſituate in the County of *Meath*, demiſed to him by *James Anneſley*, Eſq; that if they proved the Leſſor of the Plaintiff, *James Anneſley*, Eſq; to be the only Son and Heir of *Arthur* late Lord *Altham* deceaſed,

ceaſed, (who enjoyed the ſaid Premiſſes) he hoped the Jury would find a Verdict for the Plaintiff.

Then Mr. Serjeant Marſhall, *of Council on the ſame Side, opened the Leſſor of the Plaintiff's Caſe, in Subſtance as follows.*

THAT the Lands in Controverſy in this Action, were the Eſtates of *Arthur*, late Lord *Altham* deceaſed; and that the Leſſor of the Plaintiff, *James Anneſley*, claimed a Right thereto as his only Son and Heir.

That as it is pretended by the Defendant, in order to ſupport the Poſſeſſion of the Honours and Eſtates belonging to the Leſſor of the Plaintiff, that my Lord *Altham* never had a Son; it will be neceſſary to go back to his Lordſhip's Marriage, and ſhew his Lady's Pregnancy, the Birth of a Son, and trace that Son thro' a Variety of Fortunes to the preſent Time, and ſhew that the Leſſor of the Plaintiff is that very Son.

That in 1706, the ſaid Lord *Altham* was married to *Mary Sheffield*, Natural Daughter of the Duke of *Buckinghamſhire* and *Normanby*.

That in 1709 Lord *Altham*'s Affairs required his coming to *Ireland*; but his Lady remained in *England*.

That in 1713 my Lady came over to *Ireland*.

That in 1714 ſhe proved with Child, and then reſided in *Dublin*.

And that ſome time after ſhe went to a Place call'd *Dunmain*, in the Pariſh of *Tyntern* in the County of *Wexford*, where ſhe was deliver'd of *James Anneſley*, the Leſſor of the Plaintiff.

That it was publickly known in the Neighbourhood, both at *Dublin* and *Dunmain*, that ſhe was with Child.

That the Dowager Lady *Altham*, who was married to Commiſſioner *Ogle*, made her a Preſent of a rich Quilt againſt her Lying-in. That Application was made by ſeveral Women to nurſe the Child when born; but that one *Joan Landy* was preferred and appointed the Nurſe. That in the Beginning of 1715 Lady *Altham* fell in Labour, and was delivered of the Leſſor of the Plaintiff.—

That

That one Mrs. *Shiels* of *Roſs* was the Midwife that aſſiſted at her Delivery——That there was great Joy expreſſed at the Birth of this Son, and Bonfires made on that Occaſion——That great Preparations were made for the Chriſtening——That a Month after, the Child was Chriſtened at *Dunmain*, by the Reverend Mr. *Lloyde*, Lord *Altham*'s Chaplain, and Curate of *Roſs*, by the Name of *James*, after his Grandfather *James* Earl of *Angleſey*.

That the Godfathers of this Child were *Anthony Colclough*, Eſq; and *Anthony Cliff*, Eſq; and the Godmother Mrs. *Pigott* of *Tyntern*.

That *Joan Landy*, the Nurſe's Houſe, was about a Quarter of a Mile from Lord *Altham*'s Houſe at *Dunmain*, and made fit for the Reception of the Child.

That a Coach-Road was made on Purpoſe from the Houſe of *Dunmain* to the Nurſe's Houſe. That the Child at ſixteen Months old was wean'd, and one *Joan Laffan* appointed his Dry Nurſe. That there was great Fondneſs ſhew'd the Child by Lady *Altham* his Mother.

That in *February* 1717, great Diſputes aroſe between Lord and Lady *Altham*, and they ſeparated.

That Lady *Altham* deſired the Company of the Child, but Lord *Altham* with great Fondneſs refus'd it.

That Lady *Altham* left her Son with the utmoſt Concern on the Separation, and that Lord *Altham* forbid Lady *Altham* to ſee the Child. That after the Separation, the Child continued at *Dunmain* 'till 1718.

That Lord *Altham* remov'd from thence to *Kinna*, in the County of *Kildare*, where he continued for two Years, and there the Child was univerſally reputed to be his Son and Heir.

That at the latter End of 1719, Lord *Altham* removed to *Dublin*, whither the Child was brought, and univerſally eſteem'd as his Son and Heir.

That in 1720, Lord *Altham*, remov'd to *Carrickduff*, in the County of *Catherlough*, and had the Child brought there: That for ſome Time a Tutor was provided for him in the Houſe, and afterwards he was ſent to a Publick School at *Bonclody*, in the ſaid County, where he was treated as the Son of a Nobleman.

That here Lord *Altham* began a criminal Correſpondence with one Miſs *Gregory*, and in the Winter 1722, ſettled with her in *Dublin*. That the Leſſor of the Plaintiff was ſtill in Favour, and was daily ſent to a Publick School in *Proper-Lane*, and uſed with great Tenderneſs there, and treated as Lord *Altham*'s Son and Heir.

That after the ſaid Separation of Lord and Lady *Altham*, my Lady reſided at *Roſs* for three Years, where ſhe found Means privately to ſee the Child, and expreſſed great Tenderneſs for him.

That in 1720, Lady *Altham* reſided in *Dublin*. That a Diſorder ſhe contracted after her Lying-in, deprived her of the Uſe of her Limbs, and at laſt of her Memory; yet when the Child was brought to *Dublin* from *Carrickduff*, ſhe kept a ſecret Correſpondence with him, by means of ſome of the Family.

That in 1723, Lady *Altham* went to *London*, and lived there in a weak Condition on the Bounty of the Dutcheſs of *Buckinghamſhire*.

That Miſs *Gregory* having a great Aſcendant over Lord *Altham*, ſhe expected to be Lady *Altham*, and aſſum'd that Title in the Life of his Lady; but the Plaintiff being a great Bar to her Ambition, ſhe was induced to be very cruel to him. She rais'd Doubts in Lord *Altham* that he was not his Son, and thereby leſſen'd his Affection for the Child, and at length prevailed on him to remove his Son from his Houſe; that accordingly he was ſent to Board and Lodge at one *Cooper*'s in *Sheep-Street*, *Dublin*, in 1724, and to School to one *Boons* in *Warburgh-Street*.

That Lord *Altham* being then in great Neceſſity, and wanting to raiſe Money, was made to look upon his Son as a Bar in the Way, Perſons ſcrupling to lend him Money upon the Security of the *Angleſey* Eſtate (of which he was only Tenant for Life in Reverſion) unleſs the next Perſon in Remainder join'd with him; he was therefore induced to conceal his Son, who being an Infant, could not join. Agreeable therefore to Miſs *Gregory*'s Inclinations, the Child was carried to the Houſe of one *Cavenagh* to be kept private; but he being then very young, and a little too ſprightly to be kept ſo, eſcaped from thence, and went to my Lord's Houſe at *Inchicore*, but

was

was deny'd Admittance to his Father's Preſence; and then no Care being taken of him, he was reduced to the greateſt Poverty.

That on the 16th of *November*, 1727, Lord *Altham* died, and on his Death the Leſſor of the Plaintiff being deſtitute of Friends in this Kingdom by the Mother's Side, the now Defendant *Richard* took the Title of Lord *Altham*, on Pretence that his Brother the late Lord had no Iſſue.

That People were greatly ſurpriz'd at his aſſuming that Title, and particularly the Servants who were acquainted with the Family. That an Attempt was made, early after the Death of Lord *Altham* his Father, to kidnap the young Gentleman, but happily miſcarried. That a ſecond Attempt was ſoon after made, but defeated. That a third Attempt was made about four Months after the ſecond, which ſucceeded, and by means thereof Mr. *Anneſley* was ſent to the River *Delawar* in *America*, and ſold as a Slave. That Mr. *Anneſley* ſtrove to recover his Liberty, but not ſucceeding in his Eſcape, remain'd thirteen Years a Slave, in the greateſt Hardſhip and Miſery.

That afterwards by good Fortune he came to *Jamaica*, where he was known, and having repreſented his Caſe to Admiral *Vernon*, he was ſent to *England*. That ſhortly after his Arrival there, he was ſo unfortunate, as by an accidental Shot to kill a Man, for which he ſtood his Trial, and was honourably acquitted. That the Witneſſes would ſhew what Share the Defendant had, both in the Kidnapping, and in the Proſecution for the Homicide. That there is ſuch a Connection in every Circumſtance as is conſiſtent only with Truth, and he hoped would ſatisfy the Court and the Gentlemen of the Jury of the Juſtice of Mr. *Anneſley*'s Claim, and did not doubt but a Verdict would be found for the Plaintiff.

Mr. Serjeant Tiſdale, *likewiſe of Council with the Leſſor of the Plaintiff, ſaid*, That the Caſe had been ſo fully opened by Mr. *Marſhal*, that he would not take up the Time of the Court and Jury, but proceed to the Proofs, and ſhew the Birth and Identity of Mr. *Anneſley*. That he hoped there was no Neceſſity to go into the

Title of the late Lord *Altham*, and believed that the Defendant's Council, in order to ease the Court, would admit that the only Thing in Question was to prove the Legitimacy and Identity of Mr. *Annesley*.

It was thereupon admitted by the Defendant's Council, that *Arthur* late Lord *Altham*, under the Will of Earl *James*, was Tenant for Life of the *Meath* Estate, with Remainder to his first and every other Son in Tail, Remainder to the Daughters in Tail; and for want of such Issue, then Remainder to *Arthur* late Earl of *Anglesey*, and his Heirs Male, without any Limitation for the present Defendant.

Mr. Serjeant *Marshal* observ'd, That *Richard*, third Son of *Arthur* first Earl of *Anglesey* (which said *Richard* was afterwards Lord *Altham*) left Issue *Arthur* late Lord *Altham*, (who was Father of the Lessor of the Plaintiff) and the Defendant, his only Sons.

Mr. *Tisdale* then said, That the Lessor of the Plaintiff claims a Right to the Lands for which the present Ejectment was brought, as only Son and Heir of the said *Arthur*, late Lord *Altham*.—And that it will appear to the Court and Jury, that the Mother of the Lessor of the Plaintiff, though it has been and will be pretended that she never was with Child, had two several Miscarriages, and was afterwards brought to Bed of Mr. *Annesley*.

Said, He hoped it would be admitted for the Ease of the Court, that the late Lord *Altham* was married to *Mary Sheffield*, the late Duke of *Buckingham*'s natural Daughter; which the Defendant's Council admitted accordingly.

First Witness. *Dorothy Briscoe* sworn and examined, said, That she knew the late Lady *Altham*, and first knew her in the Year 1713, when she came over to *Ireland*, and lodged at Deponent's Father's House in *Bride street*, in the City of *Dublin*, and that her Father's Name was *Briscoe*; that Deponent lived in the House with Lady *Altham* for about six Weeks, and was every Day in her Company, believed Lady *Altham* was not then with Child, she having then come to *Ireland* to be reconciled to her Husband, and that Lady *Altham* came

firſt to the Deponent's Father's Houſe in the Beginning of *October*, and after the Lady *Altham* left the ſaid Houſe, ſhe went to a Houſe on *Temple-Bar*, call'd *Vice*'s Houſe, near the *Ship*, and that the Witneſs was with Lady *Altham* there after the Lord *Altham* came to *Dublin*, and was reconciled to Lady *Altham*; that the Witneſs knew they were reconciled, and that at her Father's Houſe in *Bride-ſtreet*, for that her Father having invited Lord *Altham* to Supper, her Father talked to Lord *Altham* about his Lady, that on ſuch Diſcourſe, the Lord *Altham* deſired to ſee his Lady: Whereupon this Witneſs's Mother brought Lady *Altham* down Stairs, and the Lord kiſſed Lady *Altham*, and they ſupp'd together, and this Witneſs ſupp'd with them. After Supper Lord and Lady *Altham* went to Bed together, and the Witneſs ſaw them in Bed, that Lord and Lady *Altham* went afterwards to *Vice*'s, and ſtaid there ſome few Days at their Lodgings, and then went down to *Dunmain* together, and ſoon after Lord and Lady *Altham* invited the Witneſs's Father and Mother down there; that ſhe ſaw Lady *Altham* after in *Dublin* in the latter End of the Summer 1714, and that Lord *Altham* came with her and lodged at *Vice*'s Houſe, and believed they cohabited there together, having often ſeen them there together; ſaid, ſhe knew nothing whether Lady *Altham* was pregnant there, or any thing of that Matter either there, or any where elſe, but what ſhe heard her Mother ſay.

Mr. Attorney General for the Defendant, objected to her giving an Account of what ſhe heard her Mother ſay, being no Evidence, and the Objection was allowed.

Second Witneſs. Henrietta Coles, *ſworn to the* Voire dire, *ſays*, She never was promiſed any Thing for giving her Teſtimony in this Cauſe.

Being ſworn in chief, depoſeth, That ſhe knew the late Lord *Altham* and his Lady, in 1713, by a Reconciliation being made between them at her Father's Houſe. That it was ſometime about *Chriſtmas* that they lodg'd at her Father's Houſe four or five Days, and went from thence to *Temple-Bar* to lodge: obſerv'd them to live comfortably.—Did ſee Lady *Altham* at *Temple-Bar*. That

my

my Lord and Lady went to *Dunmain* about *Christmas*. That the Deponent and her Mother, being invited, went to *Dunmain* about the Spring, 1714. That Lady *Altham* was with Child while Deponent was there, but received a Fright and miscarried. That the Fright was occasioned by my Lord's being in a great Rage at their bringing some Saucers to Table contrary to his express Orders; upon which he threw the Saucers into the Chimney just by my Lady, who was seated at the upper End of the Table. That the Deponent lay with her Mother; and that in the Night of that Day her Mother was called up by *Mary Heath*, her Ladyship's Woman, who told her, that Lady *Altham* was ill, and desir'd her to come. Says, that my Lady miscarried that Night, and Deponent saw the Abortion in a Bason next Morning. That Deponent's Mother said, if Lady *Altham* was so easily frighten'd, she never would have a Child. Says, her Mother is dead.

Cross Examined.

Says, she is about Forty-five Years old,——can't remember who were the Servants when she was at *Dunmain*. She was ask'd, being so young, how she knew it to be an Abortion?—says, she heard it from her Mother. She was ask'd, what kind of Saucers were thrown? Says, they were China Saucers with odd Kinds of Figures on them, and that Lord *Altham* had them before he was married, and order'd them not to be brought to Table to his Lady. Says, she and her Mother were at Table, and that she sat at the Lady's Right Hand.—She was ask'd, what the Butler's Name was then? She said, he was call'd *Rolph*. She was ask'd, was he present? Says, to the best of her Knowledge, he was, and brought in the second Course.—Says, Lord *Altham* used these Words, when he threw the Saucers, *These Saucers, you know, I order'd never to come to Table*; and that thereupon the Lady *Altham* fell into a Fit of Tears. Says, she never was promis'd any Lease.—Was ask'd, if any Physicians were call'd. Says, she does not remember any.—Says, that Lord *Altham* said afterwards, it was the Lady's own Fault that she had miscarried.

Third Witness. *Alice Bates* says, she knew Lady *Altham* at Captain *Brisco*'s in *Bride-street*, 1713, and at her Lodging

Lodging in *Eſſex-Street* in *November* 1714, at Mrs. *Vice*'s, and that Lady *Altham* was then with Child.——Says, that Lord *Altham* mentioned theſe Words to Deponent, *By God, Ally, Moll's with Child.*——Says, ſhe wiſh'd Lady *Altham* Joy of her being with Child, and that Lady *Altham* thank'd her in Preſence of my Lord.——Says, ſhe ſaw Lady *Altham* twice or three Times after, before her Ladyſhip went out of Town, and ſpoke to her of it; and ſays, the Lady *Altham* always own'd it. And Deponent ſaw her growing bigger, and had an Opportunity of dreſſing her.

Croſs Examined.

Says, ſhe can't tell what became of that Pregnancy.—Says, ſhe waited on Mrs. *Briſco*, and attended there ſometimes on Lady *Altham*. Being aſk'd of what Size Lady *Altham* was; and of what Colour her Hair?——Says, ſhe was a middle-ſiz'd Woman, and her Hair a dark Brown.——She was aſk'd, if Mrs. *Briſco* went to *Dunmain?* She ſays, ſhe went in the Spring 1714, and one of her Daughters along with her.——She was aſk'd, How old that Daughter was; and if ſhe was marriageable?——She ſays ſhe was, and as big as ſhe is now.——Says, the firſt time ſhe ſaw Lady *Altham* with Child, the Days were ſhort, and the Weather dirty.——Says, ſhe got a Chair to go home from Mr. *Vice*'s.——Says, ſhe was told in the Family, that Lady *Altham* was with Child.——Saw her about three Times at her Maſter's, and at her Lodgings. She was aſk'd, How many Daughters Captain *Briſco* had? She ſaid five; but could not tell which of them were at home when Mrs. *Briſco* went to *Dunmain*.——Said, Miſs *Harriott* was in the Country with Lady *Altham*; and ſays, ſhe heard her Maſter and Miſtreſs ſay, that the Lady *Altham* miſcarried in *Dunmain*, and has heard Mrs. *Coles* ſay ſo.

Fourth Witneſs. *Catharine M'Cormick* ſays, ſhe knew Lord and Lady *Altham*, when they lodged at Mr. *Vice*'s near *Temple-Bar*, where Deponent was Servant in the Year before Queen *Anne* died, in or about the latter End of Summer; ſays, that the firſt Time of their lodgings there, a Running-Footman came with my Lord's Slippers; and there was a Rumour at firſt that my Lord

was

was married to one of Captain *Brisco*'s Daughters, but it was ſoon afterwards known that Lady *Altham* was come to Town. That Lady *Altham* went to *Dunmain* from her Maſter's Houſe, and about the latter End of *May*, or beginning of *June* following, came from the Country to Mr. *Vice*'s the ſecond Time. That there was ſome Talk in the Family at Mr. *Vice*'s of the Miſcarriage at *Dunmain*.——Says, that my Lord one Evening having Words with my Lady's Woman, Mrs. *Heath*, made a great Noiſe, upon which my Lady was frightned and ſcreamed out.——That *Heath* then told my Lord that my Lady had miſcarried, or was going to miſcarry; whereupon he ſent for one Mrs. *Lucas*, a Midwife in the Neighbourhood.——That one Mrs. *Lawler*, another Midwife, was alſo ſent for.—Says, that Lady *Altham* miſcarried about ſix Weeks after her coming to Mr. *Vice*'s. Heard it from Mrs. *Heath*, her Woman, and *Heath* ſaid the Lady would be a fruitful Woman, only for my Lord's Uſage. That about two Months after, ſhe heard Lady *Altham* was again with Child, and was told ſo by Mrs. *Heath*, her Woman, who mentioned to her ſhe had good News, for that my Lady was again with Child.——Says, there were great Changes in my Lord for the better, upon my Lady's being with Child again—That he uſed to come home earlier than uſual, and that a Pair of low-heel'd Slippers was bought for my Lady, for fear of her ſtumbling and thereby occaſioning a Miſcarriage.—Says, that at a certain Time the Deponent obſerving my Lady pretty big, ſhe wiſhed her Ladyſhip much Joy of her little big Belly.—— That my Lord ſaid that was an *Iriſh* Bull, and mentioned to the Deponent that he believed ſhe might make a good Nurſe.——Says, this was in *December*, about ten Days before *Chriſtmas*, the Year Queen *Anne* died.—— Says, Lady *Altham* did not lace herſelf as uſual.—— Thought and believed Lady *Altham* to be big, and had the Walk of a Woman big with Child——That Jellies and Broth were made for her.——Says, her Huſband remained a Servant to my Lord, and ſhe parted from Mr. *Vice*'s Family.——Says, the Lady not ſeeing Company, made her firſt believe ſhe was with Child.—Says, ſhe gave herſelf full Eaſe and Liberty in a Night-gown.——

Said,

Said, the Occasion of my Lady's Miscarriage at Mr. *Vice*'s, was by my Lord's coming in one Night in Liquor; and some Disputes happening between his Lordship and Mrs. *Heath*, my Lady's Woman, a Stool was thrown, which made a Noise, and frighten'd my Lady ——Says, Mrs. *Heath* said to my Lord, *You have done a fine Thing, my Lady has miscarried*——Says, she was Servant at Mr. *Vice*'s, when Lady *Altham* kept her Bed a Fortnight——Don't remember the Name of Captain *Brisco*'s Children, or when they visited Lady *Altham* ——But says, Mrs. *Brisco* was an intimate Acquaintance of Lady *Altham*'s.

Cross Examined.

Being ask'd in what Manner she got her Livelihood? Says, by her honest Industry, and that her Employment is stamping or printing Papers for Rooms——Being ask'd whether she had any Discourse with one Mrs. *Shaw?* Says she had; and that having mentioned her living at Mr. *Vice*'s House, she was asked if she knew that Mr. *Annesley* was a Son of Lady *Altham?* or if she could swear that my Lady was with Child of that very Boy? She said, she could not.

Dorothy Brisco call'd up again by the Defendant's Council. Says, she heard Lady *Altham* was with Child, and miscarried at *Dunmain*——Can't charge her Memory if Lady *Altham* was a second time with Child——Says, her Mother and Sister came in about three Months home from *Dunmain*——Says, that Lord and Lady *Altham* came to *Dublin* after Queen *Anne* died. Don't remember her Ladyship's being with Child; for Deponent was in the Small Pox when Queen *Anne* died, and her Mother came to Town on her having the Small Pox——Says, Lord *Altham* came from *Dunmain* about *August*. She was ask'd whether she knew the Witness *Alice Bates*——Says she does, and that she's an honest worthy Woman.

Mrs. *Cole* was also called back and further examined, ——And she likewise deposed, that she knows *Alice Bates*, and that she lived in her Family, but could not recollect that ever she heard her talk any thing of Lady *Altham*'s being with Child, nor could she charge her Memory

that ſhe heard in her Houſe that Lady *Altham* was with Child, but ſaid, that after Lady *Altham* came to Town in *Auguſt*, that her Ladyſhip viſited at her Father's Houſe; ſaid, that her Siſter was then in the Small-Pox, and that the Witneſs was then ſent out of the Houſe during that time; ſaid, that Lady *Altham*, did not come to Town till two or three Months after her Mother came to Town, and that towards Winter; —that the Witneſs and her Mother call'd at *Burton-Hall*, and ſtaid there about ſix Weeks, and it was then in the Fruit-Seaſon;—and the Witneſs was ſure ſhe was at *Dunmain* in the Month of *May*; Said, ſhe had no Circumſtance whereby ſhe could particularize the Time of Lady *Altham*'s coming to Town, but that ſhe might have been in Town without the Witneſs's Knowledge, and might have been in Town without her viſiting her, and beſides, that both Lord and Lady *Altham*, might have been in Town a Month or ſix Weeks before the Witneſs ſaw them.

Fifth Witneſs. *Charles M'Carty*. Says, he knew Lord *Altham*, and knew his Lady when they lived at *Vice*'s, in the Year 1715 or 1716. Deponent kept an Inn at *College-green*, and Lord *Altham* had a Coach-houſe and Stables from Deponent—That after the Death of Queen *Anne*, about a Year or a Year and half, it was reported Lady *Altham* had a Child.—(Deponent was mentioning a Diſcourſe he had with Lord *Altham* at the *Three-Tun* Tavern, but was prevented therefrom, it being Matter of Hearſay)—Says, that the Parliament was ſitting when Lord *Altham* lodg'd at Mr. *Vice*'s, and that it was in Summer-time.

Sixth Witneſs. Major *Richard Fitzgerald*. Says, he knew Lord *Altham*, and was acquainted with his Lordſhip in 1714, at a Place call'd *Proſpect Hall* in the County of *Waterford*, and at *Dunmain*, and knew Lady *Altham*; That Deponent was at *Dunmain* ſometime in 1715. Being aſked if he was ſure it was in the Year 1715; ſays, he is certain; but ſays, he could not then ſee Lady *Altham*, becauſe ſhe was lying in at that time, and that ſhe ſent word down to the Deponent, that if ſhe could ſee any Body, ſhe would ſee him.

him. Being aſked the Occaſion of his coming to *Dunmain*—Says, he met Lord *Altham* at *Roſs*, who invited Deponent to dine with him the next Day; That Deponent deſired to be excuſed, becauſe he was to dine with ſome Officers; but Lord *Altham* ſaid, Deponent muſt dine with him, and come to drink ſome Groaning-drink, for that his Wife was in Labour—Deponent told him that was a Reaſon he ought not to go; but Lord *Altham* would not take an Excuſe, and ſent the Deponent Word the next Day to *Roſs*, that his Wife was brought to Bed of a Son; and the Deponent went to *Dunmain* and dined there, and had ſome Diſcourſe about the Child, and Lord *Altham* ſwore that the Deponent ſhould ſee his Son; and accordingly the Nurſe brought the Child to Deponent, and Deponent kiſſed the Child, and gave half a Guinea to the Nurſe—and ſome of the Company toaſted the Heir-apparent to Lord *Angleſey* at Dinner. That this was the Day after the Child was born,—and Deponent ſays, he left the Country the next Day, and went to the County of *Waterford*, to his own Houſe at *Proſpect-Hall*—Says, that he ſaw the Woman to whom he gave the half Guinea, this Day of his Examination; that he remembers her well, becauſe he took Notice of her when he gave her the Half Guinea, that ſhe was very handſome—That he did not ſtay at *Dunmain* that Night, but came to *Roſs* at Night-fall, and was attacked in the Road by Robbers—that he croſſed the Ferry on his Return home—remembers that the Lord *Altham* was in high Spirits with the Thoughts of having a Son and Heir.

Croſs Examined.

Deponent was aſked, did he ever return to the County of *Wexford?* Says, he never did—He was aſked, how far *Proſpect-Hall* is from *Dunmain?* Says, about twenty-eight Miles—He was aſked on what occaſion he was at *Roſs?* Says, that Deponent's Uncle, Mr. *Pigott*, lived in the County of *Wexford*, and at his Death left Deponent a Legacy, which occaſioned Deponent's going there—and ſays, he was a good while dead before Deponent got an Account thereof.

Seventh Witness. *John Turner*. Says, he lived at *Dunmain* ten Years, and knew Lord and Lady *Altham*—Deponent was Steward to the Lord *Anglesey*, and visited Lord *Altham*; that he married in *December* 1714, and he and his Wife went to *Dunmain* and staid there about three Weeks about *Lent* time, and Lady *Altham* was big-belly'd at the Time he went there—says, Lady *Altham* told Deponent the next Time he saw her, that she had a Son—afterwards saw the Boy at *Dunmain* a Year and a half old—staid a Night at *Dunmain*, and had the Child in his Arms—saw the Lady leading the Child across the Parlour—saw the Lord *Altham* kiss the Child, and he call'd him *Jemmy*—saw the Child afterwards at *Ross*, and at *Kinnay*, in the County of *Kildare*—saw the Child once at *Ross* when Lady *Altham* lodg'd there at one *Butler*'s—Deponent being asked how the Child was treated at *Kinnay*, says, he was dressed as the Son of a Nobleman, and the Servants called him Master; saw him at *Kinnay*, as he believes, three or four times—the Child could walk at *Kinnay*, and used to be wheel'd about in a little Carriage—saw the Child afterwards at *Carrickduff* in 1720, and Lord *Altham* was fond of the Child—That my Lord and Deponent being at a Tavern in *Dublin* in 1722, Lord *Altham* said he would send for his Son that Deponent might see him, and the Child accordingly was sent for—that he was then about eight Years old—and Lord *Altham* said to Deponent, you were Steward to Earl *Arthur* and Earl *John*, and you may be Steward to the Child—and Deponent says, he believes he saw the Child once after in *Dublin*, but did not know him, only was told it was he—and that was about two or three Years after the Meeting at the Tavern, that the Child had no Cloaths, and was so much alter'd, that although the People of the Town told him he was Lord *Altham*'s Son, he did not know how to believe it.

Cross Examined.

Deponent was asked where my Lord lived at the Time he saw the Child in that poor Condition? says, he does not know, but believes at *Inchicore*; admits he did

did not enquire where he was, nor about the Child, having heard that the Child born at *Dunmain* was dead many Years ago—That Deponent was settled near *Camolin Deer-park*—says, it was visible the Lady was with Child—Deponent was asked what Size Woman my Lady was? he says, a lusty and swarthy Woman, and her Hair brown—knows not what Neighbours visited at my Lord's—but has seen Col. *Palliser* there—He was asked if he knew the Servants?—says, he did not know one Servant by Name—believes he might then know them, but does not now recollect them—has seen my Lady's Woman, but does not know her Name was *Heath*--- knows *Owen Cavenagh* now, but did not know he was Lord *Altham*'s Servant---He was asked if he knew *Ralph* the Butler?---says, he has heard the Name of *Ralph*, but could not tell whether or no he was Butler---He was asked if he knew the name of the Servant who made his Bed?--- says, he does not remember her Name——He was asked if he knew the Name of the Cook? he said, no---or the Nurse? he said, no---saw the Child at Mrs. *Butler*'s House at *Ross*, and afterwards at *Dublin* when he was 10 or 11 Years old, and in a miserable bad Dress---never saw Lady *Altham* but at *Dunmain*, at *Ross*, and in *Dublin*---said, he never heard till within these two Years that Lord *Altham* died, ---says, about 1728---says, he saw the Boy in a ragged Condition before Lord *Altham* died, at the upper End of *Aaran Quay* in *Dublin*, and heard some little Boys call him my Lord---says, Lord *Altham* apply'd to him in 1723 to speak to Lord *Anglesey* to help to maintain his Son, which Deponent did; and Earl *Arthur* gave Deponent 50 *l.* for that Purpose. That this was about six Years before his Death---says, that being recommended by Mr. *Cæsar Colclough* to the present Earl of *Anglesey*, Deponent went frequently to see him, and Defendant used to entertain Deponent with telling him how much he was perplexed by Law-suits—that Deponent asked him one Day what was become of *Jemmy?* to which the Defendant answered, that he was dead.

Eight

Eighth Witneſs. *Dennis Redmonds.* Says he knew Lord and Lady *Altham*, and Deponent was Servant to Lord *Altham* after he came to *Dunmain*, about thirty Years ago, and was three Years in his Service, and knew that Lady *Altham* was with Child, becauſe he ſaw her when ſhe was big-bellied, and it was the Talk of all the Servants; ſays, my Lady was brought to bed at *Dunmain*; and Deponent was ſent for the Midwife the Day before her Delivery. Being asked how he was employ'd in the Service—ſays, he looked after the Hunters; ſays, it was Mrs. *Heath* who ſent him for the Midwife (whoſe Name was *Shiels*) and the Deponent brought her from oppoſite the Barracks in *Roſs*, and that the Child was chriſtened when he was about three Weeks old, by one Mr. *Loyd* (Lord *Altham*'s Chaplain) by the Name of *James*; that the Godfathers were Counſellor *Cliff* and Mr. *Colclough*, and the Godmother Madam *Piggot*, and that the Nurſe (who nurſed the Child) was *Joan Landy*, who was preferred, as he was told, becauſe ſhe had the beſt Milk; that there was a Bonfire made and other Rejoicings for the Birth of the Child. That the Child was nurſed about a Quarter of a Mile from the Houſe upon my Lord's Land, and nobody lived in the Houſe, but the Nurſe's Father and Mother and a Servant Maid of the Houſe; and Lord *Altham* and his Lady went often there to ſee the Child, and to bring him to *Dunmain*, and that Lady *Altham* had a Coach-road made on Purpoſe to go to ſee the Child; that the Child was at Nurſe about a Year, and then remov'd to *Dunmain*. That in the Beginning of 1717, my Lady went away from *Dunmain*, on Occaſion of Mr. *Thomas Palliſer*. That Lady *Altham* had the Child in her Arms as ſhe was in the Chariot going away, and was kiſſing it, but the Lord *Altham* came out in a Paſſion and took the Child from my Lady, and gave it to *Joan Laffan*; and the Lady begged to have the Child along with her, and cry'd becauſe my Lord refuſed her; That ſhe ſent for the Child to *Roſs*, but could not have it as he knows of. That the Child had Gold-lace on his Hat, and was dreſſed like

a Nobleman's Child. Says, he ſaw the Child (as he believes ſix Years after) at *Carrickduff*, and the Lord behaved to it as to his own Child; and Deponent knew him by his Face to be the ſame Child he ſaw at *Dunmain*. Deponent did not ſtay at *Carrickduff*; came to my Lord only in order to break ſome Horſes (Deponent being a Horſe-rider.) That he ſaw the Lord walking about with the Child at *Carrickduff*. Says, he has heard that Mr. *Loyd* who chriſtened the Child is dead, and that the Godfathers and Godmothers are dead.

Groſs Examined.

Says, he was Servant *to Lord* Altham *about two Years*, before his Lady came to *Dunmain*. That ſhe was brought to bed about *May*. Says, Deponent was not preſent at the Chriſtening; Believes the Midwife *(for whom Deponent was ſent to* Roſs) is dead. Says, that *Joan Landy* was the Nurſe, and that ſhe afterwards married to *Daniel M'Cormick*; That ſhe had a Child before her Marriage; and ſome ſaid, a Sailor, and ſome that Lord *Altham* was the Father of it.

[*Hereupon the Lord Chief Baron ſaid, that it looked odd, that Lady* Altham *ſhould ſend her Child to be nurſed to a Perſon ſuſpected to have a Child by her Ladyſhip's Huſband.*]

Says, that *Joan Landy* was brought to bed many Months before my Lady *Altham*—Says, he ſaw *Landy*'s Child, and that one Father *Michael Downes* chriſtened it. That her Mother and Siſter took care of her Child, when ſhe nurſed my Lady's. That *Landy*'s Child died at the Age of three or four Years, of the Small-pox, after my Lord had left *Dunmain*, and Deponent was at his Burial. He was asked by what Name *Landy*'s Child was called? he ſaid, ſometimes it was called *Landy*, and ſometimes *M'Cormick*. That he never heard *Landy*'s Son called *Anneſley*. That *James Landy*, the Nurſe's Father liv'd in *Dunmain*; That the old Houſe was put in Repair for the Reception of my Lady's Child. That Deponent was never examined before his preſent Depoſition. Says, that Col. *Palli-*

ſer

ser in some Discourse with Deponent, desired Deponent not to have any thing to say in this Affair.

Ninth Witness. *Margaret Shircliff.* Says, she knew Lord and Lady *Altham*, and that Mrs. *Shiels* the Midwife told Deponent she delivered Lady *Altham* of a Child about *April* or *May*, about twenty nine Years ago. [This being Hear-say-Evidence, was objected to by Defendant's Council, and the Court allowed the Objection.]

Tenth Witness. *Mary Doyle.* Says, she knew Lord and Lady *Altham*; that she was hired by the Steward to be a Servant in Lord *Altham's* Service. That she liv'd with Lady *Altham* three Months before she was brought to Bed, and was in the Room when Lady *Altham* was delivered at *Dunmain*. That Mrs. *Shiels* who liv'd at *Ross* was the Midwife; and *Dennis Redmonds* was sent for her. That there was three or four present when Lady *Altham* was brought to Bed, and the Christening of the Child was publick. That Mr. *Anthony Colclough* and Counsellor *Cliff* were the Godfathers, and Mrs. *Piggot* the Godmother, and Mr. *Loyd* (who was my Lord's Chaplain) christened the Child, and there were great Rejoicings for the Birth, and Plenty of Wine and other Liquors drank on that Occasion. That several Nurses came recommended, but *Joan Landy* was appointed Nurse, who was afterwards married to one *M'Cormick*, as Deponent has heard; that she was a clean tight Girl; that she was reputed to be married to a Sailor, and have the Child by her Husband.

Cross Examined.

Says, she lived three Months at *Dunmain* before the Child was born. That she remembers to have seen Major *Fitzgerald* there in a few Days after Lady *Altham* was delivered. That Deponent was present at the Christening. Never knew of any Person's being brought to Bed there but Lady *Altham*. That the Child was christened in the Parlour about three Weeks after its Birth, and Mrs. *Heath* was present at the Christening. Believes *Landy* was then married to one *M'Cormick* who liv'd at *Dunmain*. Believes, that Major *Fitzgerald* did lye at *Dunmain*, and staid there for some

some Time, Says, that *Joan Landy* nursed the Child —never was at her House; but heard from the Servants that were there, that *Joan Landy*'s House was about two Fields from the House at *Danmain*, and that the Nurse's House was finely white-washed. Says, that *Charles Meagher* was the Butler then. That one Madam *Butler*, *Nelly Murphy*, and Mrs. *Heath* were there at that time. Says, Lady *Altham* was almost three Hours in Labour; that it was dusky when she was brought to Bed, and that she was taken ill the Day before.

Eleventh Witness. Mrs *Deborah Annesley*. Says, she knew Lord *Altham*, at a Place called *Kinna* in the County of *Kildare*. That Lord *Altham* lived there, and Deponent lived within three Miles of that Place, at *Bullyshannon*. That Lord *Altham* was her Husband's Relation, and visited Deponent. That Lord *Altham* and this Deponent's Brother, Mr. *Paul*, at this time, used often to drink his Son's Health. Being asked if she visited Lord *Altham* at *Kinna*? says, she did not care to go to the House because Lord *Altham* had brought down a House-keeper there. Says, that this was in 1717 or 1718. Says, her Brother visited my Lord. Being asked if she believed the Child was my Lord's lawful Son? Said, she believed he was his lawful Son, and never heard the Contrary. Says, the Child was called *James*, that her Brother was a sober grave Man, and he is sure would not have toasted the Health of the Child if he had been a Bastard. Says, that the Child went with Lord *Altham* to *Carrickduff* in the County of *Catherlough*, and Deponent never heard of him afterwards. Says, her Brother frequently after the Death of Lord *Altham*, enquired what was become of that Boy, but never could learn, which made them all conclude he was dead.

Cross Examined.

Says, she never doubted, but always believed the Child was Lord *Altham*'s Son, but admits she did not hear of a Child till he came to *Kinna*. Says, that after Lady *Altham* came over a second Time from

England, she was supposed to be with Child. Says, Deponent once visited Lady *Altham*, when she came to the Country, but her Husband soon after dying, and Deponent being in Affliction never had any Correspondence with the Family afterwards. Says, that she herself drank Lord *Altham*'s Son's Health often when my Lord lived at *Kinna*.

Twelfth Witness, *Thomas Barns* of *Kilkenny*, Alderman. *Mr.* Barns *being called to give his Evidence, was asked by Defendant's Council, if he had not a Lease of some Lands, Part of the Defendant's Estate? Mr.* Barns *admitted he had a Lease of thirty one Years, which was expired, or near expiring. Whereupon he was objected to by Defendant's Council, for that he was interested, and therefore could not give his Testimony. In Answer to which, the Council for the Lessor of the Plaintiff said, that the Lease was not of any of the Lands in the Declaration, and therefore his Evidence could not be objected to.*

To which the Defendant's Council replied, that tho' Mr. Barns's *Lease was not of the Lands in question, yet all the Estate might be affected by the Verdict, and therefore as he was interested, he was an incompetent Witness.*

To this it was answered, that since Mr. Barns *had not any Lease of the Lands now in dispute, he could not be supposed to be consequentially, and not immediately interested, and therefore might properly give his Testimony; and the following Case was cited to shew, that a Person consequentially interested in a Suit of Law may be admitted to give Evidence: Two Persons coming from* Parkgate *to* Dublin *in one Ship, both had their Portmanteaus stol'n from on board the said Ship; one of the Persons sued the Master of the Ship for the value of the Goods he had lost, and produced the other Person, (who had likewise lost his Portmanteau) as his Evidence. It was objected by the Counsel for the Master of the Ship, that the Witness was a Party interested, and should not be admitted to give Testimony; because, if the Plaintiff succeeded, the Witness would have the same Title to recover against the Defendant, in which Case he would bring*

bring his Action against the Defendant, and the Plaintiff vice versa *might be a Witness for him. Yet notwithstanding the Objection the Court admitted the other Person to be a Witness, because he was not a Party in the Suit,* and not immediately, *tho' consequentially interested. Therefore the Council for the Lessee of the Plaintiff insisted, that Mr. Barns should be admitted to give his Testimony in the present Case.*

Which the Court agreeing to, *Mr. Barns* was sworn.

Says, he very well knew Lord and Lady *Altham*. Being ask'd, if he knew that Lord *Altham* had a Son? says, he knew nothing of my Lord's having a Son, but what he was told by my Lord. That he went to *Ross* in *Spring* 1715, and Lord *Altham* came to the Inn where he was, and meeting him in the Kitchen, said, he was glad to see Deponent, and asked him where he had been? that he told my Lord he had been in *Dublin* about Affairs of the Duke of *Ormond*; my Lord said to Deponent, I hope we shall dine together; Deponent said, with all my Heart; and after that they went up Stairs and dined together; that after drinking some Wine, my Lord said to Deponent, *Tom*, I'll tell you good News, I have a Son by *Moll Sheffield*; Deponent thereupon shook his Head, (not remembering she was my Lord's Wife) and said, Who is *Moll Sheffield?* my Lord taking Notice of Deponent's Meaning, said, Zounds, Man, she is my Wife: upon which Deponent said, my Lord, I humbly beg your Pardon, I am sorry for what I said. Says, that until my Lord had mentioned she was his Wife, he took her to be a naughty Pack; but afterwards Deponent recollected that my Lord's Wife was the Duke of *Buckingham*'s Daughter; and Deponent then advised my Lord, that since he had a Son, to take care of his Wife, and discharge all other Women. Says, he knows the Year he went into the Country, because he went upon hearing of his Father's Death. Says, that my Lord lived at *Dunmain* after the Disgrace of the Duke of *Ormond*; Deponent's Reason of Remembrance is, that he was Receiver to the Duke for forty-five Years,

and came to *Dublin* from the Country, by Order of Mr. *Nutley*, who was concerned for the Duke. Says that Deponent was at *Dunmain* the Day after my Lord and he had the Discourse at *Ross*. Being asked, if he saw a Son there? Says, he does not know but he might, but is not certain; does not remember any Conversation he had with Lord *Altham* about his Son at *Dunmain*. Says, the Deponent din'd and supp'd there, and remembers Lady *Altham* at Dinner, but not at Supper. Says, he thinks one Mr. *Sutton* was at Dinner. He was asked, if he knew my Lord's Agent, or any of his Servants? Says, he did; that he saw them at that Time, but cannot recollect they said any thing to him, or he to them. Says, he does not remember seeing the Nurse there.

Cross Examined.

Deponent being ask'd, what Month he went to *Ross*? answer'd, either in *April* or *May*, but can't fix which. Says, he might have seen *Ralph* the Butler, but did not know him.—Did not know the Servants *Dwyer* or *Cavenagh*; but knew Mr. *Taylor*, but had no Discourse with him about the Son. Says, my Lord did not tell him whether or no the Child was christen'd, nor what his Name was. Says, no body was present at *Ross* when my Lord spoke to Deponent, and the Discourse was after Dinner, and as common Discourse.—He was ask'd, how he came not to understand my Lord's Expression of his having a Son by *Moll Sheffield*? Says, he did not recollect who she was. Says, he is Sixty-five Years old. He was then ask'd, how long he served the Duke of *Ormond*? He said, since Ninety-five. He was then ask'd, if he did not say he served him forty-five Years? He said, he meant to this Day. Says, he has heard five hundred at *Ross* say, Lord *Altham* had a Son.

Thirteenth Witness. *Southwell Piggot*, Esq; Says, He knew Lord and Lady *Altham*; and that it was generally reported without any Contradiction, that he had a Child about thirty Years ago. Deponent came over from *England* about the Year 1712. Says, there was a great Intimacy between his Step-mother (Mrs. *Piggot*

Piggot) and Lady *Altham*.—That Mrs. *Piggot* died about 1720 or 1721. Says, he never heard that the Child (which he heard Lady *Altham* had) was a Daughter.

[The Council for the Leſſor of the Plaintiff were going to aſk Mr. *Piggot*, what he heard his Step-mother ſay about her being Godmother to the Child; but this was objected to by Defendant's Council, who inſiſted that Hearſay was no Evidence, and that the Witneſs, Mr. *Piggot*, ought not to be ſuffer'd to give any Account thereof.

In anſwer to this the Council for the Leſſor of the Plaintiff inſiſted, that Matter of Hearſay, *which could not be ſuppoſed originally intended to be made uſe of in the Cauſe* (ſuch as what the Deponent heard ſeveral Years ago) ought to be admitted, and the rather as it was produced to corroborate poſitive Proofs. That if Mrs. *Piggot* ſaid, ſhe was Sponſor to the Child, it muſt have ſome Weight; for Mrs. *Piggot* could not foreſee that what ſhe ſaid on that Occaſion was ever to be given in Evidence, and therefore her Declaration could not be ſuppoſed calculated for any particular Purpoſe. That where a Leaſe is loſt, an old Rent-Roll may be given in Proof; becauſe it cannot be ſuppoſed to have been deſigned for that particular Purpoſe. The Declaration of a Wife has been admitted to be given in Evidence againſt a Huſband; becauſe at the Time it was made it could not be ſuppoſed to be intended to be made uſe of as Evidence, and a Caſe in *Skinner*'s Reports was cited to this Purpoſe.

It was farther urged by Plaintiff's Council, that there was no ſtated Rule of Evidence; but that the Rules of Evidence vary according to Circumſtances of the Caſe. And tho' it muſt be allow'd that Hearſay is the loweſt Degree of Evidence, yet it was Evidence to be ſubmitted to the Jury.

It was anſwered by the Council for the Defendant, that any Declaration of Mrs. *Piggott*, which was not made in the Preſence of the Earl of *Angleſey*, ought not to be given in Evidence. That Mrs. *Piggot* is dead, and where Perſons are dead, the Law hath not provided for

for their Testimony, nor will it substitute a mere Declaration in the Place of an Oath.

As to this Rent-Roll (if it appears that it was found among the Deeds and Papers of the Family, and not designedly left there) it may be Evidence in case of a Lease lost or mislaid, to shew the Value of Lands; but not to prove that there was a Lease in Being. The Nature of the Case may require such a Proof, and it may be necessary to produce the Rent-Roll: But that is very different from the Hearsay-Evidence of Mrs. *Piggot*'s Declaration in the present Case.

That the admitting Hearsay-Evidence in the present Affair, would introduce a dangerous Precedent, in regard the other Side could not have the Benefit of Cross Examining.

In some Cases, it is true, Hearsay-Evidence is admitted from the Necessity of the Thing; as if a Man receives a mortal Wound, his Declaration at the Point of Death would be Evidence; but that's in Case of the Crown, in a Criminal Affair, and in a Case of absolute Necessity; which is distinguished from a Civil Case.

That in Civil Cases there is not the same Necessity, because a Bill in Equity may be filed to perpetuate the Testimony of ancient Witnesses, and then the Evidence may be cross'd examin'd. But Mrs. *Piggot* being dead, no Declaration of her's can be Evidence, *because the Defendant has no Opportunity to cross examine her.*

An Affidavit of Mrs. *Piggot*'s could not be read in the present Question; therefore much less a Declaration of hers made several Years ago, and which was not upon Oath. If Hearsay-Evidence of this Nature were to be admitted, such Precedent would be attended with evil Consequences.

The Court would not admit the Hearsay of Mrs. *Piggot*'s Declaration to Deponent to be made use of as Evidence, on the principal Reason, That Hearsay-Evidence ought not to be admitted, *because of the adverse Party's having no Opportunity of cross examining.* And that if Declarations of Persons dead were to be admitted,

ted, they would in Effect have the Force of original Teſtimony.]

Fourteenth Witneſs. *Philip Breen.* Says, Deponent knew Lord and Lady *Altham* about thirty Years ago, at *Dunmain*, where Deponent's Father and Mother lived. Says, that Deponent ſaw Lady *Altham* with Child at *Dunmain*, and heard by the People of the Place that ſhe was with Child; and that about 28 or 29 Years ago (a little before or after *May*) there were great Rejoicings at *Dunmain* for the Birth of a Child. Says, that *Joan Landy* nurs'd the Child at her own Father's Houſe; That it was a Thatch'd Houſe, and repair'd on that Occaſion. Says, he has ſeen the Child with Lord and Lady *Altham* in the Coach. Says, he remembers the Child *Joan Landy* had, and that it died of the Small Pox after Lord *Altham* left *Dunmain*; believes about a Year; and Deponent was at the Wake and Burial. Says, that the Child which *Landy* nurs'd, was removed to *Dunmain*, and delivered to *Joan Laffan*, one of the Maids at *Dunmain*; Says, that there was a Coach-road made between *Landy's* Houſe and *Dunmain* Houſe; and Deponent has ſeen the Coach go that Road. He was aſk'd, whether he remember'd Mrs. *Heath* at *Dunmain* at the Time he ſaw the Child? Says he did.

Croſs Examined.

Being aſk'd, who he heard was Father of *Joan Landy's* Child; he anſwered, that ſome ſaid Lord *Altham* was, and others ſaid a Sailor was the Father of it. Says, *Joan Landy* was married to *Daniel M'Cormick* after Lord *Altham* left *Dunmain*; and that Lord *Altham* was ſuppoſed to have got the Child in the Houſe of *Dunmain*, when *Landy* was Dairy-maid; ſays, *Joan Landy's* Child was a Year older than Lady *Altham's*; ſays, he was often in every Room of the Houſe. Says, Lady *Altham* was a tall Woman; and that Mrs. *Heath* was a tall thin Woman. That *Joan Landy's* Child was called *James Landy*. Does not remember his being ever called *James M'Cormick*,

wick. Says, he does not know who christen'd the Child.

Fifteenth Witness. *Elinor Murphy.* Says, that she knew Lord and Lady *Altham* at *Dunmain*, about twenty-eight or twenty-nine Years ago; says, that she was a Servant there when my Lady was brought to Bed, that Deponent was call'd to bring up some Water to my Lady's Room, and then she went into the Room with a Bason of Water, immediately after Lady *Altham* was delivered; that Mrs. *Sheils* was the Midwife, and *Dennis Redmonds* was sent for her to *Ross*. Being ask'd, who was in the Room when she went in? Says, Madam *Butler*, Mrs. *Heath*, and *Mary Doyle*. Says, Deponent came to live at *Dunmain* about the Beginning of Summer, and remained at *Dunmain* about two or three Months after my Lady's Delivery of the Son. That *Joan Landy* was the Nurse; and there were several other Women applied for the Nurse's Place. Remembers there were Bonfires and Rejoicings at *Dunmain* for the Birth of a Son; That the Child was about three Weeks at *Dunmain* after its Birth, and then the Nurse took it to her own House; That a little Road was made from *Dunmain* House to the Nurse's, for the Chariot. That one Mr. *Anthony Calclough*, and Mr. *Cliff*, were the Godfathers, and Mrs. *Pigott* the Godmother, as she heard from several of the Servants. Knows that Mr. *Cliff* of *Ross*, and Madam *Pigott* us'd to come there, and has seen them there often. Says, Deponent was in the House at the Christening, and was Servant under the Laundry-maid. Remembers Mrs. *Heath* was in the Room when the Lady was brought to Bed: The Christening was about three or four Weeks after. Says, *Joan Landy* had a House of her own, and believes her Mother and Sister liv'd with her; but does not know if her Father was alive when she took Lady *Altham*'s Child to Nurse. She was ask'd how long *Joan Landy* had her own Child before Lord *Altham*'s Child was born? says, about three Quarters of a Year; and that *Landy*'s Child continued with her in the House after she took my Lady's Child to nurse. She was ask'd, if the House was the same it

was

was before? Says, she believes it was, except that it had another Room; but says she did not know the House well before *Landy* had the nursing of the Child. She was asked, what Sort of a House it was? Says, a little House hard by.

Cross Examined.

Being ask'd if she did not go into the House; Says, No, no farther than the Door. She was then as'd, how she could know that there was another Room; says, that the Room was built as an Addition to the old House. Being ask'd, if she ever saw *John Landy*'s Child; says, Yes. She then again named the People in my Lady's Room at the Birth, and that herself went into the Room after the Birth of the Child with the Water, and that it was about duskish; and that Lady *Altham* kept her Chamber a Month or six Weeks, and that the Child was christen'd before my Lady left her Room, and was christen'd in the yellow Room up one Pair of Stairs, but does not know who were at the Christening. Says, she was three Months in the Service before the Birth of the Child, and a Quarter of a Year after. Says, that *Mary Doyle* came into the Service before her.——Does not remember that they had any particular Conversation about the Child at that Time, and has never seen her since, and knows not if she should know her now.——Knows not whether she or *Mary Doyle* left the House soonest. Says, she did not wash any of my Lady's Linen. She was ask'd, if she was married? Says she is, and has Children.

The Examination of these Witnesses having taken up all *Friday* till Eleven of the Clock at Night, the Court observed to the Council, that as there was a great Number of Witnesses more to be examined on both Sides, so it would be impossible for them, or the Jury to continue hearing the Cause thro', without an Adjournment; and therefore recommended it to the Parties to consent to such Adjournment: Accordingly both Parties readily expressed their Consent, and the same being reduced into Writing, and signed by the Attornies on both Sides, the Court adjourn'd till nine of the Clock the next Morning.

The Lord Chief Baron made a Compliment to the Jury, and expressed his Sense of their Honour and Inte-

grity; that the Nature of the Thing required an Adjournment, tho' there was but one Precedent of adjourning a Jury on a Trial of that Kind; but as they were Gentlemen of ſuch ſtrict Honour, any Confidence might be repoſed in them, without Danger of any Prejudice reſulting from it.

The ſecond Day of the TRIAL.

Saturday, November 12, 1743.

THE Court being met about 9 o'Clock in the Morning, according to Adjournment, the Jury were called over, and anſwered to their Names; and then the Counſel for the Plaintiff proceeded to examine their Witneſſes, as follows.

Sixteenth Witneſs. *Chriſtopher Brown* ſays, he knew the late Lord *Altham* about thirty-three Years ago, and knew the Lady *Altham* on her firſt coming to *Dunmain* about thirty Years ago, and knew her to have a Son about twenty-eight or twenty-nine Years ago. Being asked his Cauſe of Knowledge, ſays, he lived a Servant to *Anthony Cliffe*, Eſq; who was invited to the Chriſtening of the ſaid Child. That Deponent went to *Dunmain* that Day, and waited at Table on his Maſter. Says, he remembers Mr. *Anthony Colclough*, Mr. *Cliff* of *Roſs*, Mr. *Anthony Cliff*, and Captain *Tench*, were at the Chriſtening, but does not recollect the other Perſons. Says, it was in the Beginning of Summer as near as he can tell: Being deſired to point out the Month; ſays, it was in *May* as near as he can gueſs. Says, he did not ſee any Lady there but Mrs. *Pigott*; and ſaid there were Plenty of Entertainment and great Rejoicings there; ſays, Deponent was ſent ſeveral Times with Meſſages from his ſaid Maſter, (who lived at *Clinyduff*, about three Miles from *Dunmain*) to enquire how my Lord, and Lady, and

and the Child did—saw the Child afterwards at *Dunmain* in my Lady's Lap, and with the Nurse *Joan Landy*, and never saw him but at *Dunmain*. Deponent waited at Table the Day of the Christening, and heard them toast, the Lady in the Straw and the young Christian.

Cross Examined.

He was asked as to the Time of drinking of the above Health? Says, he can't tell, whether it was before or after Dinner. Says, he is sure Mr. *Colclough*, Mr. *Cliffe* of *Ross*, and Mr. *Anthony Cliff* were there, and says there were several others at Dinner, whom the Deponent can't recollect. Says, my Lady did not dine with them. Heard it was Mr. *Lloyd* that christened the Child, and remembers that he dined there; says, he knew him very well, and that he lived at *Ross*; says, Mrs. *Pigott* was at the Head of the Table; says, that all that dined there, to the best of Deponent's Remembrance, are dead; says, that Deponent dined along with the Servants; remembers Mr. *Taylor* and *Dennis Redmonds* to dine there; says, no Woman-servants dined with Deponent; says, he thinks *Anthony Dwyer* was the Butler, but never saw him before that Day. He was desired by Defendant's Counsel to name the Servants who dined there. He says, *I cannot name them, would you have me tell you what I don't know?* Says, Deponent drank several Healths, and was very merry, but knows not what particular Healths were drank—says, there was not a Bonfire on the Night of the Christening, but heard there was one the Night following, but Deponent was not there. Being asked what Meat there was for Dinner; says, *I don't know, would you have me keep an Almanack in my Head?* says, he cannot tell whether the Christening was above or below Stairs; says, he did not see the Child till the Day of the Christening, nor the Nurse; cannot tell whether he saw Captain *Sutton* there that Day, or that he dined there; says, he remembers Captain *Tench* being there, because he was married to his Master's Sister, and that Mr. *Colclough* was there, because he was one of the Gossips: says, his Master did not stay at *Dunmain* that Night. Being asked if he knew *Thomas Rolph* the Butler; says, that one *Dwyer* was Butler, and attended that Day; says, he did not

know my Lady's Woman. Being asked if he saw Mrs. *Heath*; says, he did not know her. Being asked to whom he delivered the Messages, when he came from his Master and Mistress with Services to *Dunmain*; says, he delivered them to one Mr. *Taylor*, and that Mr. *Taylor* returned the Answers to Deponent. He was asked, how he came to deliver Messages always to Mr. *Taylor*, and not to the other Servants; he says, because he was my Lord's Gentleman; and Deponent always enquired for him. Being asked if Mr. *Taylor* is reputed to be dead or alive; says, he does not know, and has not seen him these 20 Years past. Being asked if he knew *Mary Doyle*, or *Eleanor Murphy*; says, no. Being asked if he ever saw Lady *Altham*; says, yes, at the House of *Dunmain*, in the Parlour, with the Child in her Arms. Says, he believes he saw the Child about a Year afterwards. Says, my Lady was a tall fine slender Woman. Believes she was taller than Deponent, but says he never measured her. Says, she was thin in the Face. Being asked if she was a handsome Woman; says, she appeared so to Deponent. Says, he cannot tell the Colour of her Hair, for that she had Powder in it the Day Deponent saw her, and that he never saw her but once in the Parlour, and sitting down. He was then asked how he could know she was a tall Woman; says, she appeared to be tall by her Bulk and Figure. Says, he lived with *Anthony Cliff* a Servant for 21 Years; says, that my Lord visited Deponent's Master at his House, but my Lady did not, nor did Deponent's Master's Sisters visit my Lady. Being asked where the Company dined the Day of the Christening; says, in the Parlour of the House of *Dunmain*, as near as Deponent can guess, fronting the great Yard. Says, he does not know that the Room had any other Name than the Parlour. Being asked who was at the Side-Board; says, some of the Servants stood there, but Deponent does not know who it was: Says, *Anthony Dwyer* attended as Butler, and Deponent attended his Master. Says, every Gentleman's Servant waited at Table. Is sure Mr. *Cliff* of *Ross* dined there, and that one *M'Gee* his Servant waited on him. Says, he does not remember the Names of all the Servants that dined with him at the same Table; but thinks that all the Servants

vants dined there. Does not know how many Tables there were there. Can't tell particularly whether *Redmonds* or *M'Gee* dined with Deponent at the ſame Table. Says, the Servants died in the common Hall at a long Table; and Deponent remembers but one Table there. Says, the Hall was on the ſame Floor with the Parlour where the Gentlemen dined. Says, the common Hall, the Parlour and the Kitchen were on one Floor, to the beſt of Deponent's Remembrance: ſays, he does not know but ſome dined in the Kitchen; does not think he went down Stairs to the Kitchen.

Seventeenth Witneſs. *John Scott* ſays, he was Servant to Mr. *Pigott*, who lived within three or four Miles of *Dunmain* about 33 or 34 Years ago (before Mr. *Anneſley*, Lord *Altham*'s Son, was born) at a Place called *Tyntern*; and Deponent knew Lord *Altham* at *Dunmain* about 30 Years ago. Says, Deponent went for *England* with Sir *Harry Pierſe*'s Son, and Sir *Harry* followed in *May*, and returned in *July*, about 28 or 29 Years ago. He was aſk'd if his Maſter was in Mourning; ſays he was, but knows not on what Occaſion. Says, Sir *Harry Pierſe* married a Daughter of Mrs. *Piggott*'s. Says, he was ſent ſeveral Times from Mrs. *Pigott*'s to Lord and Lady *Altham*, with Meſſages and How-do-yous, to know how their Child did. Being aſk'd what the Reputation of the Country was, in relation to my Lord's having a Son; ſays, it was commonly underſtood by all the Neighbourhood, that my Lord *Altham* had a Son by his Lady; ſays, he has ſeen the Child brought by the Nurſe to Mrs. *Pigott*.

Croſs Examined.

Knew the Houſe at *Dunmain* very well: Says he uſed to go through the Yard to the Kitchen. Being aſk'd if the Kitchen was on the ſame Floor with the Parlour; ſays, it is not; that it is under the beſt Parlour. Says, that Deponent was born near *Dunmain* Houſe, and knew it. Says, it is about 10 or 12 Steps going up to the Front of the Houſe. Says, there is a little Parlour below Stairs on the Left-hand, and that the other Parlour is on the Right-Hand as you go in. Says, the Common Hall was between the Kitchen and the little Parlour. Being aſk'd, if the Hall where the Servants uſed to dine was on the ſame Floor with the Parlour? Says,

Says, no. That when you came into the House, it was into a Lobby or Entry, which Deponent believes was about 5 or 6 Foot broad, and 16 Foot long. Says, Deponent was Servant to Counsellor *Piggot*; and that it is about 28 or 29 Years ago Deponent went to *England*, as near as he can guess, and continued in *England* from the latter End of *March* till the Beginning of *July*. Says, Sir *Harry Pierse* was in *London*, and lodg'd at St. *Martin*'s. Can't tell whether Queen *Anne* was living or dead then. He was ask'd, if he ever was in *Yorkshire*? Says, he was not. Said he landed at *Parkgate*, going to *England*, and took Shipping there at his Return home. He was ask'd, if he took Notice of the proclaiming of the King? Says, he did not. He was ask'd, if he could tell whether the Rebellion of *Preston* was before or after his going to *England*? Says, he cannot tell, Says, he never was in *England* but once. Says, it was after his Return from *England*, that Lord and Lady *Altham*'s Child was born. Says, he cannot tell upon what Occasion Sir *Harry Pierse* went to *England*. Says, he cannot recollect whether their Return from *England* was before or after 1713; but as near as he can guess, it was about 28 or 29 Years ago. Says, he lived in Mr. *Piggot*'s Family for 7 Years; and that he lived there about a Year, or a Year and half before Deponent went to *London*. Deponent mentioned afterwards some Gentlemen with whom he had lived a Servant.

An Application was then made to the Court by one of the Defendant's Council, for Liberty to call one Mr. *Brehan*, Sovereign of the Town of *Ross*, to view this Witness. *Brehan* accordingly appeared and viewed him, and said he knew him; and *Scot* said he also knew him very well; and then *Brehan* was ordered to retire.

Christopher Brown was ordered by the Court to be called again, to be examined as to the Situation of the House of *Dunmain*, and to tell some of the Servants Names.

Says, the House of *Dunmain* had a Front and a Back-door; but does not recollect whether he went up to the front Part of the House by Steps or nor, nor was he sure whether or no the Gentry dined in the best Parlour. Said, the Parlour he spoke of was the Room on the left Hand

Hand going in, and that the Kitchen was on the same Floor with it. Says, he remembers *Anthony Dwyer* lived there in the Quality of a Butler.—Believes one *John Lambert* was there, and one *Ralph*, Under-Butler; but does not remember *Owen Cavenagh* there. Says, that *Martin Neefe* and Mrs. *Heath* might live there; but does not remember them.——Believes he spoke once to *Anthony Dwyer* to deliver a Message. Says, that Deponent lived at *Dunmain* with *Aaron Lambert*, Esq; before Lord *Altham* lived at *Dunmain*.

Eighteenth Witness. *Joan Laffan* says, that she knew Lord and Lady *Altham*——That Deponent lived at Colonel *Dean*'s in the Year King *George* came to the Crown; afterwards Deponent left that Service, and went for some Time to live with her Friends, and in the Year following went into Lord *Altham*'s Service. Says, it was not a whole Year between the Time of her living with Col. *Deane* and coming to Lady *Altham*'s Service.—Does not remember the Month she came to Lady *Altham*'s, but says, it was in the Year 1715; and that she was there in the Station of a Chamber-Maid, and was employed to attend Lord and Lady *Altham*'s Child (who was called Master *James Annesley*) when it came from the Wet-Nurse; and that he was kept like a Nobleman's Child.——That the Child was about three or four Months old when Deponent came to the Service, and was about a Year and half in Deponent's Care; that my Lord and Lady were very fond of the Child, and my Lady used to send for him up in a Morning and take him into the Bed, and generally call'd him my Dear. That afterwards the Child was taken from Deponent, and sent to a Place called *Kinna*, in the County of *Kildare*. That Deponent did not go with the Child, but remained at *Dunmain*; that the Butler (whose Name was *Charles Field*) was sent with the Child. Says, that Lord and Lady separated in a very angry Manner on Account of *Tom Pallifer*; (when the Child was about three Years old;) and Deponent was present when *Tom Pallifer*'s Ear was cut off. Says, that after the Separation Lady *Altham* went from *Dunmain* to *Ross*, and lodged there at one Captain *Butler*'s. Says, that she was present when my Lord and Lady parted; that she saw my Lady

Lady at the Door, with the Child in her Arms; that my Lord came out of the Houſe in a great Rage, and aſked where his Child was; and upon being told that he was with his Mother, he ran up to her and ſnatched the Child out of her Arms; that my Lady begged very hard ſhe might take the Child along with her; but that my Lord ſwore he would not part with his Child upon any Conſideration; that my Lady finding ſhe could not prevail, burſt out a crying, and begged ſhe might at leaſt give the Child a parting Kiſs; that my Lord, with ſome Difficulty, conſented, and then my Lady drove away to *Roſs*; that as ſoon as my Lady was gone, my Lord gave the Child to Deponent with a ſtrict Charge to Deponent and to Mr. *Taylor* not to let my Lady have any Acceſs to him: but ſays, that notwithſtanding theſe Orders, ſome of the Servants found Means to carry the Child privately to *Roſs* to ſee my Lady, which when my Lord was told of, he flew into a very great Paſſion. Says, that the Child was carried to *Roſs* without Deponent's Privity, for that ſometimes Deponent uſed to go to *Waterford* to ſee a Brother of her's who lived there, and ſome other Friends; and in her Abſence ſome of my Lord's Servants, for the Lucre (as ſhe believes) of getting a Piece of Money from my Lady *Altham*, took thoſe Opportunities to carry the Child to her to *New Roſs*. Says, that the *Chriſtmas* Eve, after the Separation, the preſent Earl of *Angleſey*, who was then Captain *Anneſley*, was at *Dunmain* Houſe, and not ſeeing the Child, ſaid to Deponent, *Where is Jemmy*, or, *where is my Brother's Child? How did his Mother behave at parting with him?* To which Deponent anſwered, That my Lady had begged of my Lord very hard to have the Child with her; whereupon the preſent Earl made uſe of an extraordinary Oath, and ſaid, *that he wiſhed his Brother had kept none of the Breed*; and that *when he turned away the Mother, he ſhould have packed off the Child, and ſent them both to the D——l.* Says, that ſhe is of a good Family, and would not have waited on the Child, if ſhe had believed him to be a Baſtard.

Croſs Examined.

Says, great Notice was taken of the Child both by my

my Lord and Lady. Says, ſhe ſaw the Child immediately after ſhe came into the Service. That ſweet Whey and Broth were made every Day at my Lord's Houſe for *Joan Landy* the Nurſe, and freſh Meat conſtantly ſent to her Houſe, which was about a Quarter of a Mile from the Houſe of *Dunmain*, and the Nurſe was charged not to eat Greens or ſalt Meat. Says, that my Lady herſelf would go ſometimes in the Evening to the Nurſe's and carry the Child home. Says, Lord *Donneraile* was at *Dunmain* about a Month when Deponent had the Care of the Child, and took Delight in playing with him, and once drew out a handful of Gold that the Child might take his Choice of ſome of the Pieces. Says, ſhe is particular as to my Lord *Donneraile*'s being at *Dunmain*, becauſe ſhe particularly remembers his Running-Footman's running a Race for ſix Guineas. Says, Lord *Donneraile*, when he went away, took Shipping at *Ballyback* (a Sea-port near *Dunmain*.)

Says, that the Child was always or generally ſhewn to the Company that came to *Dunmain* Houſe. Deponent was aſked, if Mrs. *Giffard* (Capt. *Giffard*'s Wife) viſited Lady *Altham*? Says, that as near as ſhe can gueſs, Deponent ſaw her three or four times there, but that ſhe was not ſo grand a Woman as to be intimate with my Lady; does not know whether Mrs. *Giffard* ſaw the Child at *Dunmain*, the Time of her coming there being much out of Deponent's Memory. Believes Mrs. *Giffard* lived about a Mile from *Dunmain*; and might viſit my Lady before the Child was under Deponent's Care. Says, that Mrs. *Giffard* did not viſit *Dunmain* after the Separation. Says, that the Child was kept very fine, and was generally dreſſed with a ſcarlet Velvet Hat, white Feather, and laced Cloak, when he uſed to be ſhewn to Company, and had Cambrick and Holland Things of all kinds. Says, that one *Nancy Butler* was Laundry-Maid. Being aſked, if Mrs. *Giffard* dined with my Lord and Lady when ſhe came there? Says, ſhe believes that ſhe did. She was aſked, if Mrs. *Lambert* viſited my Lady? She ſays ſhe did very frequently, and that Mrs. *Piggot* and Mrs. *Butler* did alſo frequently viſit there. She was aſked, if the Child was ſhewn to Mrs. *Lambert*? Says, it was often ſhewn to her, and

that the Wet-Nurse, or Dry-Nurse, were the Persons who shewed the Child to the Gentlemen and Ladies that visited there. She was asked, if she knew Col. *Palliser*; says, she has never seen him but once. Says, she wishes his Son *Tom Palliser* never had been at *Dunmain*, for then the Accident of the Separation had never happened. Says, she remembers that the Day his Ear was cut off, she had the Child in her Hand, and the Child shewed Deponent some of the Blood which had fallen from *Palliser*'s Ear on the Ground; says, he shewed it her by pointing his Finger to the Ground where some Drops of Blood were. She was asked if Mr. *Thomas Palliser* saw the Child; Says, he did. Says, that the Occasion of my Lord's cutting off *Mr. Palliser*'s Ear, was, that some of the Family had made my Lord jealous of him, and contrived that Morning to get him into my Lady's Chamber when she was in Bed and asleep, and then they brought my Lord, who being by this Stratagem confirmed in his Suspicions, ordered *Tom Palliser* to be dragged out of my Lady's Bed-Chamber by the Servants, and with a Sword was going to run him through the Body; but the Servants interposed, and begged my Lord not to take away his Life, and only to cut off his Nose, or one of his Ears; and accordingly the Huntsman was ordered to cut off his Ear, which he did in the Room next the Yellow-Room. Says, the Servants kicked him down Stairs, and turned him out of the Gate, and that this happened on a *Sunday* Morning; that my Lady left the House of *Dunmain* the same Day, and went to *Ros*. Deponent was then asked, if Col. *Loftus* visited there? says, she does not remember he did. She was then asked about the Servants, if she knew *Anthony Dwyer*? Says, she did, has heard that he was a poor Lad, and that my Lord first took him as a Page. She was asked, if she knew *Charles Meagher*? says, she did, and that he was the Butler. She was asked if she knew one *Roche*, a Butler there? Says, he was not there in Deponent's Time. Does not remember *Owen Cavanah*; says, she knew Mrs. *Heath*, my Lady's Woman, and *Martin Nash*, a Smith that lived there. Says, she remembers *William Elmes*, who lived within two Miles of *Dunmain*, and that he was a Farmer; but never saw

him at *Dunmain* House, nor any of his Family. Says, my Lord visited at Mr. *Houghton*'s. Being asked, if she ever was in *England*; says, she was, better than a Year and a half ago; that she went there last 27th of *March* was Twelve-month. She was asked, if she knew *William Henderson*, a Quaker; says she does, and that she saw him at *Waterford*, before she went to *England*. She was asked, if she went to his House in *London*; says she did. She was asked where it was she took Shipping; says, at *Ballyhack*.—Where it was she landed; says, at *Bristol*. She was asked, how she became acquainted with *Henderson*; says, that being at *Waterford*, he sent her a Message, having heard (as she believes) that she had lived in Lord and Lady *Altham*'s Service; that thereupon she went to him, and he asked Deponent, if she knew of any Child that Lord and Lady *Altham* had: that she answered him, she did not know of their having a Son called *James*, *but* (added Deponent) *what signifies that now? he was long since transported, and I believe he is dead.* To which *Henderson* replied, that he was not dead, that he was very well, and then in *London*. Says, that one *Bridget Howlet*, *Joan Landy*, and *Edmund Nowlan*, went in the same ship with Deponent. She was asked if she made any Affidavit before Mr. *Robert Snow* of *Waterford*? says, she never did, and that he never took any thing in Writing from her in relation to the Child; but says, she was sworn before a Master in Chancery in *London*, and examined there. Says, that the chief of her Business to *England* was to see her Nephews, who were Sailors on board some of the King's Ships, expecting to get some Money from them, and that she did not go on account of Mr. *Annesley*. Says, she never received a Penny for giving her Evidence; says, that *Joan Landy*, *Bridget Howlet*, and Deponent went from *Bristol* to *London* with *Henderson* (whom they met at *Bristol*) in a Coach and Four; says, she paid a Crown for her Passage to *Bristol*, and a Pistole for her Coach Hire to *London*, all of her own proper Money. Believes *Henderson* paid for the rest of the Company, and that he paid all the Bills and Expences on the Road to *London*. Says, she would have gone to *London*, if *Henderson* had not applied to her; says, that *Henderson* took

Lodgings (in the same Street where he lives) for *Joan Landy*, *Bridget Howlet*, and Deponent, and believes that he paid for them; says, *Henderson* told Deponent, that if she would live with him, he would give her as good Wages as any in *Ireland*; that accordingly Deponent hir'd with him as a Servant for about a Year. Says, that one Mr. *Paterson*, an Attorney, and Mr. *M'Kercher* spoke to her in *London* about the present Affair.

[*Mr. Baron* Mountney *said, he knew Mr.* Paterson, *and gave him a good Character.*]

Deponent was ask'd, if *Joan Landy* liv'd any time at *Henderson*'s? says, she did as Kitchen-Maid. She was ask'd what Condition *Joan Landy*'s House was in at the time of her nursing of the Child? says, it was put into right comfortable Order, fit to receive my Lord and Lady's Child; says, that the Child's fine Cloaths were always kept at the great House of *Dunmain*, to dress him in when Company came to my Lord's. Says, that after Deponent left my Lord's Service, she went to *Kinna*, in the County of *Kildare*, to get her Wages from my Lord, and there she saw the Child, which was then about four Years old, in the Care of one Mrs. *Mary*, and says it was the same Child that had been under Deponent's Care at *Dunmain*; says, that *Joan Landy* had a Child of her own, which was nurs'd by her Sister when she was taken to nurse Mr. *Annesley*, and says they call'd the Nurse's Child *James Landy*; says, she heard many Years ago that he was dead; says, that it was reported that *Joan Landy* was married to a Sailor, and that the Child was his, and that he was gone abroad; and afterwards it was said to be my Lord's Child; but says, that my Lady never heard of my Lord's being the Father, till after she had parted from him.——Believes, that if my Lady had known it before she would never have admitted *Joan Landy* to nurse her Child. Being ask'd, if she had ever seen Father *Downs* at *Dunmain* House? says, she has. She was ask'd as to their Religion; says, she is a *Roman*.

Nineteenth Witness. *Thomas Brooks* says, he is a Piece of a Surgeon, and is about 48 Years old, and that he live near *Farrets* in the County of *Wexford*, between *Ross* and *Wexford*, within three Miles of *Dunmain*; says, that

that about twenty eight or twenty-nine Years ago a Messenger came from Lord *Altham* to Deponent's Father's House (who was a Farmer) to fetch Deponent, in great haste to my Lord's House. Cannot recollect particularly the Time of the Year, but to the best of Deponent's Knowledge it was in the Spring, for the Boughs of the Trees were green, and it was in the Evening, and light enough for Deponent to do his Business; says, that when Deponent came to *Dunmain* he saw Mrs. *Shiels* of *Rasa* (the Midwife) with whom Deponent was acquainted, and she shewed Deponent the Way into Lady *Altham*'s Bedchamber, and Deponent was ordered to breath a Vein or to bleed my Lady, which Deponent accordingly did. He was asked how he knew she was Lady *Altham*; says, she was called my Lady; that she was sitting in her Bed, and as Deponent supposed very unwell, for she cried, O my God! several Times. That immediately after Deponent had done his Duty of bleeding her, he quitted the Room, and was shewed into another, where Deponent got Meat and Drink, and refreshed himself: Says, that Deponent staid in the House a good Part of the Night; and that some Time after Deponent had eat and drank, Mrs. *Shiels* came down to the Room smiling, and said, the Lady was delivered of a fine Boy. He was asked, if he knew Mrs. *Heath* at *Dunmain*; says, he did not, and that he had no Business to take Notice who was in the House when he went on such Occasions. Says, that the Messenger came for Deponent to his Father's House, and desired him to go to my Lord's House at *Dunmain*; but did not say on what Account he was wanted there.

Cross Examined.

Says, he went up one Pair of Stairs to my Lady's Room. Says, he saw the Servants go to and fro, but did not see my Lord, and was not paid. Says, that he went into the House Streetways. Says, that he knew one *Redmond*, a Servant in the House. Says, it was a Boy that wore a Livery that came for Deponent. Being asked, if it was usual to bleed Women in Labour; says, he was not told she was in Labour, and that he did not see any Signs of Labour about her. Says, he staid a good Part of the Night in *Dunmain* House. Says, he

bled

bled my Lady in the Arm, but cannot tell which Arm. Says, she asked Deponent no Questions; that she reached out her Hand by Mrs. *Shiels*'s Directions, who held the Pewter-Plate, in which the Blood was received. He was asked, how many Ounces of Blood were taken from my Lady; says, he cannot tell the Quantity, for he bled by Gueſs; that the Midwife bid him not take much Blood. Says, he cannot tell what Hour the Boy came for Deponent. Says, he brought no Horſe for Deponent, but Deponent got one for himſelf, and rode hard, becauſe the Boy told him he was wanted in great haſte. He was asked, if the Lady was dreſſed; says he took no Notice whether ſhe was dreſſed or not. The Bed-cloaths came up to about her Middle, ſhe had a Gown on, and was ſitting in the Bed, and there were three or four People in the Room.

He was asked, if *Sutton* the Surgeon was in *Roſs* at that Time; says, he cannot tell. He was asked if Lady *Altham* was a fair Woman; says, her Perſon is greatly out of his Knowledge, for he did not take much Notice of her, but says, ſhe was not fair. Says, Deponent had bled ſome of the Servants before. Says, he does not know whether he had heard of the Queen's Death before that Time or not. Says, he never heard any Lady called Lady *Altham* but one; has ſeen her before and after that Time, but cannot tell how long before, for he never booked it. Says, he does not know but he ſaw her more than once before he bled her. He was asked, how he came to know ſhe was Lady *Altham*; says, ſhe was called ſo. Says, he has been in all about three Times at *Dunmain* Houſe. Says, he bled many People before he bled Lady *Altham*; that he is now about forty-eight or forty-nine Years old, and has practiſed Surgery about twenty Years; but says he knew how to bleed when he bled my Lady *Altham*; that he learned to bleed of one *Graham* (who lived in the *Queen's County*) but did not ſerve his Time to him. Says, he does not know what Age he was of, when he was taught to bleed, but when he bled Lady *Altham*, he was near his Manhood. Being asked if he remembers all the Perſons whom he bled twenty Years ago; says, he does not. Being asked if he ever bled any other Woman in Labour; says, he

bled

bled Madam *Sutton* when she was in Labour. Says, he received a Summons about a Fortnight ago, to give his Evidence in this Cause. Says he does not understand Anatomy.

Twentieth Witness. *Laurence Misset*, Gentleman, who being sworn and examined,—said, he knew a Person that lived at *Kinnay*, near the Place where the Witness lived in the County of *Kildare* called Lord *Altham*, and that Lord *Altham* lived there about two Years, and the Witness was then a School-boy, and about seventeen or eighteen Years old;—Said, there was then a School at *Dowdingstone*, where the Witness now lives, and a Boy went there to School whom they called Lord *Altham*'s Son; and the School Master's Name was *Bryan Connor*;—Said, it was a poor Country School, that the said *Connor* was a Popish School-Master, and was prosecuted by a Protestant School-Master in that Neighbourhood; that several of the Neighbours along with the Witness applied to the Lord *Altham* to protect the said *Connor* from the Prosecution; the Lord *Altham* said he would take another Method to prevent *Connor*'s being prosecuted, for that he would send his own Son to *Connor*'s School, and by that Means the other Person would desist the Prosecution.—Said, this Application was made to Lord *Altham* when he was a Hunting.—Is sure that it was at the Request of the Neighbours that Lord *Altham* made the Promise.—That he did not know what Year the Lord *Altham* went to live at *Kinnay*, but believed it was some Time after the Lord *Altham* went to live there, otherwise the People would not know him, and believed it was a Quarter or Half a Year after he went to live at *Kinnay*.—Believed the Witness is now about Forty-two or Forty-three Years old, and was sure, that Lord *Altham* must have lived at *Kinnay* for some Time, before he sent his Son to *Connor*'s School.—That he did not know where Lord *Altham*'s Son dieted or lodged, but believed he lodged in some Part of the Neighbourhood, *Kinnay* being too far from the School;—Said, he saw Lord *Altham* when he was a Hunting call at the School-Door to see the Boy, but saw no Servant or Footman attending the Boy at School, that the Boy was not then less than six Years old, and wore a Coat, Breeches, and a Hat, and that

the

the Boy continued at School about a Month.—That the School was at the Corner of a Field, and Lord *Altham* used to hunt there.—That the Boy went by the Name of the young Lord *Altham*, and was so called at the School,—said, that after the Boy left the School, the Witness would go with the Master who was a Fisher on *Saturdays*, to fish at a River near Lord *Altham*'s House, and that Lord *Altham* invited the Witness and the School-Master to dine with him, and which they did; and that he saw the Boy at Dinner with them, and that Lord *Altham* introduced the Boy as his Son;—Said, that he could not then distinguish the Difference between lawful and unlawful Children, but that Lord *Altham* called the Boy his Son;—That Lord *Altham* used to call the Witness by the Name of *Lally*, the Witness frequently hunting with Lord *Altham*, and one Day said to the Witness, *Lally*, I hope you will see that Boy, the Earl of *Angleſea*, and the Boy was then riding with the Lord *Altham*,—and further said, that that Boy was taken to be the Lord *Altham*'s Son in the Neighbourhood.

Lord Chief Baron. Witness, are you sure that the Boy you saw at *Connor*'s School and afterwards at *Kinnay* was the Boy called Lord *Altham*'s Son?

Witness. I am sure he was.

Lord Chief Baron. Witness, are you sure that he is the same Boy that Lord *Altham* acknowledged to be his Son.

Witness. I am sure he is.

Lord Chief Baron. Witness, are you sure that he is the same Boy that Lord *Altham* said to you, that his Lordship hoped you the Witness would see the Boy Earl of *Angleſea*?

Witness. I am sure he was the same Person.

Cross Examined.

Says, he has heard that Mr. *Annesley* was a Son got of my Lady when she was away from my Lord——[*Mr. Annesley being shewn to Deponent on his Examination in Court, to know if he could say he was the same Person he saw at* Kinnay,] Deponent said, he could not say he was the identical Person, it being so long ago. Being asked how the Child was clad at School, says, he had a laced Hat, and was in a Coat and Breeches, and Deponent takes him to have been no less than six Years old. De-

ponent

ponent being aſked what his own Age was at that Time; ſays, he believes it was about 16 Years old, for that by the Reputation of his Family, he was 43 Years old laſt *July*, and Deponent has been married 13 Years laſt *April*. Being aſk'd if he was at *Connor*'s School in the *South-Sea* Year; ſays, he remembers to have heard of the *S. Sea* Year, but does not think he was at *Connor*'s School then; cannot ſay how near it was to the Time of the Rebellion of *Preſton* or the Death of Queen *Anne*; but ſays, that by Computation he muſt then have been about 17 Years old; ſays, he went to other Schools beſides *Connor*'s School. Being aſked if he might not be 20 Years old at that Time; ſays, he does not think he was; remembers he was grown up. He was aſked if Lord *Altham* was free and familiar with the Boys who hunted with him; ſays, he was. Deponent was then aſked again, whether he was 16, 17, 18, or 19 Years old at that Time; ſays, he cannot be certain whether he was 16 or 17 Years old; ſays, he went to *France* in 1723; that after leaving *Connor*'s School, he went to a School at a Place called *Naus* to learn the Mathematicks, and that he did not go to *France* till ſome time after his leaving that School. Deponent was again deſired to aſcertain the Time of his own Age when he ſaw the Child at *Kinnay*; ſays, he would willingly do it if he could, but that it is a long Time ago, and therefore he could not be exact; but ſays, he is ſure he muſt have been 15 Years old at leaſt, becauſe he could wade through the River.

Twenty-firſt Witneſs. *James Walſh* ſays, he knew Lord and Lady *Altham*, and knows that Lady *Altham* had a Child; ſays, there was ſome Diſpute between them which cauſed a Separation, and thereupon Lady *Altham* parted from *Dunmain*, and came to lodge at the Houſe of Mr. *Butler*, (who was Deponent's Stepfather) at *New Roſs* in the County of *Wexford*; ſays, that he ſaw her the Day ſhe came there, and that ſhe was in very great Trouble and Affliction, and ſhed Abundance of Tears; that ſhe complained Lord *Altham* had uſed her ſo ill, that, if it were not for two Conſiderations, the cruel Treatment ſhe had met with would break her Heart. Deponent being aſked whether he knew what theſe Conſiderations were, ſays, that my Lady ſaid, one

of them was, that she had a tender, indulgent, and best of Fathers, (the Duke of *Buckingham*) and the other that she had a promising young Son, who, she hop'd in God, would be a Comfort and Support to her in her old Days.

Cross Examined.

Being asked if he ever saw that Son; says, he can't say he ever saw him. Says, this Conversation was about 27 Years ago, and passed in the Presence of Deponent's Step-Father and Mother. Says, the Day Lady *Altham* left *Dunmain* she came to *Ross*, and it was on a *Sunday*, and Deponent saw her Ladyship that Day coming up to Mr. *Butler*'s House; says, he had heard before that Time, that my Lord had a Child, and that he was nursed at *Dunmain*, says he has been told that the Child was brought to *Ross* to see his Mother, my Lady *Altham*, and Deponent computes the Child was then about two or three Years old; says, he does not know *Joan Landy*; says, Lady *Altham* came to *Ross* in a Chaise or Chair, and to the best of Deponent's Remembrance, it was drawn by one Horse; and fancies her Waiting Maid, Mrs. *Heath*, came along with her; says, it was before Dinner my Lady had the before-mentioned Conversation with Deponent, and my Lady dined with Deponent's Step-Father and Mother, and Deponent's then Wife; says, he saw Lady *Altham* at *Ross* at that House very often after that Day; says, he took Lady *Altham* to be the Duke of *Buckingham*'s Daughter; for Deponent's Step-Father having a Suit of Law in *England*, mentioned it one Day to my Lady, and desired her Interest with the Duke of *Buckingham*, who, he said, might befriend him in it.

Twenty-second Witness. *James Cavenagh* says, he was acquainted with the late Lord *Altham*, when he lived at a Place called *Carrickduff*, in the Year 1721 or 1722, or thereabouts, and was his Neighbour there, about a Year and a half, or two Years. Says, Lord *Altham* had with him a Child who was deemed his only Son; that the Child lived in the House with his Father, and Deponent often saw him there, he generally visiting my Lord once or twice a Week; says, he always observed him very fond and respectful of the Child, as a Parent should be; said,

he

he never heard my Lord ſay who was the Child's Mother; but never had any Doubt of his being legitimate, or ever ſo much as heard that he was illegitimate till lately. Deponent particularly remembers, that one Day my Lord, the Child, and this Deponent were walking in my Lord's Garden at *Carrickduff*, and Deponent taking Notice of the young Gentleman, ſaid, *My Lord, Maſter is grown a fine ſprightly Boy; I hope your Lordſhip takes good Care of his Education*; to which my Lord ſaid, that *he had a Tutor in the Houſe to inſtruct him*, and declared to Deponent, that *if the Boy lived, he would one Day or other be Earl of* Angleſey. Deponent ſays, he then took the Child to be eight or nine Years old; ſays, my Lord uſually carried his Son abroad with him, to viſit the Neighbours, and brought him to Deponent's Houſe particularly, and the Child was by every Body that lived in the Neighbourhood treated and deemed as Lord *Altham*'s lawful Son. Deponent never ſaw the Child after he left *Carrickduff*, to the beſt of his Remembrance.

Croſs Examined.

Says, he does not know when Lord *Altham* parted from his Lady, and never heard him talk about the Child's Mother at all; ſays, he became acquainted with my Lord at *Carrickduff*, but cannot tell whether this was before or after the *South-Sea* Year; ſays, he viſited my Lord as a Gentleman; ſays, my Lord likewiſe viſited Mr. *Charles Byrne* and Mr. *Bridgers* who lived in the Neighbourhood, and one Mr. *Derenzy*. Deponent ſays, he often ſaw my Lord and the Boy go about publickly together, and has ſeen the Child with him at publick Meetings.

Twenty-third Witneſs. *James Dempſy* ſays, he knew Lord *Altham* at *Carrickduff*, in the Year 1721, and that my Lord had a Son; ſays, the Occaſion of his knowing it was as follows: One Mr. *Thomas Owens* came to Deponent, and propoſed to him the taking Care of his Lordſhip's Son, in Quality of a Tutor, for which Deponent was to have eight Pounds a Year; that Deponent agreed to the Propoſal, and accordingly went and inſtructed the Child at my Lord's Houſe at *Carrickduff* for about half a Year; but Deponent finding by the Neighbours, that it would be more advantageous for Deponent to teach the

Child abroad, on Account of teaching the Neighbours Children; Deponent applied to his Lordſhip for Leave to teach his Son abroad, to which his Lordſhip agreed, and the Child was attended to the publick School, by one of his Lordſhip's Servants; ſays, the Child continued under Deponent's Care for near two Years; ſays, the People called the Child the young Lord, and that my Lord acknowledged him to be his Son; ſays, the young Gentleman was kept in decent Apparel; that he had a Fuſtian Coat when at School, and a Coat of Scarlet Cloth on Holy Days and State Days; ſays, that Deponent taught him to read *Engliſh*, and that the Child was then about ſeven Years old; ſays, that about a Year ago, as Mr. *Anneſley* (the Leſſor of the Plaintiff) was returning from the County of *Wexford* to *Dublin*, in Company with Mr. *M'Kercher*, one Mr. *Mark Owens* and other Gentlemen, they called at *Hacket's Town* in the County of *Catherlough*, near which Place Deponent lives, and Deponent happened to be in the next Room to them in the Inn, where they put up; and Deponent was ſent for into their Company, and when Deponent came into the Room, he was deſired to look upon the Company, to ſee if he knew any of them; ſays, he preſently knew Mr. *James Anneſley*, and pointed to him; and ſaid this is *James Anneſley*, (Lord *Altham*'s Son) *if he be living*, who was under my Care for ſome Time; whereupon Mr. *Anneſley* kiſſed Deponent, and aſked him whether he had heard of his being in the Kingdom; to which Deponent replied that he had not; ſays, Mr. *Anneſley* mentioned to him what great Hardſhips he had undergone ſince he was under Deponent's Care, but Deponent cannot remember what particular Hardſhips he mentioned; ſays, he never ſaw him ſince the Time he was at *Carrickduff* before that Day, nor was the Deponent informed before that Time of his being in the Kingdom; ſays, Lord *Altham* recommended him to Deponent's Care as his Son; ſays, he has heard Mr. *Anneſley* was tranſported about 15 Years ago out of the City of *Dublin*; ſays, Deponent left *Carrickduff* before Lord *Altham* left it. [The Deponent was deſired to look about in Court, and try whether he could ſee the Perſon whom he ſaid to be Lord *Altham*'s Son, and to whom he was Tutor; where-

whereupon (after looking about) he pointed to Mr. *James Anneſley*, and ſaid, he was the very Perſon to whom he was Tutor, and the ſame Perſon he ſaw in *Hacket's-Town* aforeſaid, in Company with Mr. *M'Kercher* and others.]

Croſs Examined.

Says, he ſaw Mr. *Anneſley* at *Cullen's*, an Inkeeper at *Hacket's*-Town, and that no Perſon defired him to go to the Houſe, but Deponent went to eat a Stake of Beef for Breakfaſt, and knew not of Mr. *Anneſley* or his Company's being there; ſays, he lives at *Ballymacooly* near *Hacket's-Town*; ſays, he believes *Mark Owens* (one of the Company) enquired from the Woman of the Houſe if Deponent was in Town, and that it was upon that Occaſion Deponent was ſent for into the Room to their Company. That Deponent was told, there was a Perſon who would be glad to ſee him; ſays, he believes Mr. *Owens* might tell Mr. *M'Kercher* about Deponent, for that he never knew Mr. *M'Kercher* before that Day; ſays, he knew *Mark Owens* about 25 or 26 Years ago; that *Mark Owens* often ſaw Deponent at *Carrickduff*, and was with my Lord when Deponent was Tutor to the Child; ſays, that *Mark Owens* was in the Room with Mr. *M'Kercher* and the reſt of the Company when Deponent went in; ſays, that he did not ſee him for two Years before that Time, nor ever had any Diſcourſe with him about Mr. *Anneſley*. Says, he never heard before he ſaw Lord *Altham's* Son, that he was in the Kingdom; ſays, it was the Woman of the Houſe that brought Deponent into the Company, and that it was Mr. *M'Kercher* aſked him if he knew any one in Company; ſays, that he did not know who was in the Room before he went in. Says, he is about thirty ſeven Years old, that he never was acquainted with Lord *Altham* before he was employ'd as a Tutor to his Son; and that it was Mr. *Thomas Owens* (who was Deponent's Father's Landlord) that recommended Deponent as a careful, ſober young Man, and fit to be Tutor to the Child. Being aſked, if he went to Maſs or to Church; ſays, that he goes to Maſs; but that he did not know much of Religion when he tutor'd Mr. *Anneſley*, for during the ſix Months

Months that he ſtaid in the Houſe he neither went to Church or Maſs; but ſays, he has a better Notion of Religion now (thank God.)—Says, that Lord *Altham* never examined Deponent whether he was a Roman or Proteſtant, and believes my Lord did not know of what Religion he was. Being aſked, if he is in holy Orders now; the Council for the Leſſor of the Plaintiff objected to that Queſtion, and the Witneſs refuſed to anſwer it. Being aſked, if he knows *Thompſon Gregory*; ſaid, he does; and that he lived at *Carrickduff* when Deponent was there.——Says, he was told the Child had one *Thorpe* Tutor to him for ſome Time.—Says, that after Deponent ſaw Mr. *M'Kercher* at *Hacket*'s-*Town*, he had ſome Converſation with Mr. *Francis Thornell* about Mr. *Anneſley*.—Says, he did not ſee Mr. *M'Kercher* ſince he ſaw him at *Hacket*'s-*Town* until the *Saturday* before his Examination, and did not ſee *Mark Owens* ſince till the *Saturday* before his Examination. He was aſked, if Mr. *Anneſley* had his own Hair or a Wig when he was Tutor to him; ſays, he had Hair of his own of a flaxen Colour, and not a Wig. He was aſked, whether he had his own Hair or a Wig when he ſaw him at *Hacket*'s *Town*; ſays, that one's Hair is now toſſed up in ſuch a Manner that it's hard to diſtinguiſh between a Perſon's own Hair and a Wig, therefore Deponent could not take upon him to be certain whether it was his own Hair or a Wig he had at *Hacket*'s-*Town*.—Says, that Deponent went to School himſelf for about two or three Years after he was Tutor to Mr. *Anneſley*. Being aſked, what he learned at School; ſays, one Mr. *Hughes* taught him the Odes of *Horace*.

Twenty-fourth Witneſs. *Charles Byrn* ſays, he knew the late Lord *Altham* at *Carrickduff*, in the Year 1721 or 1722, and Deponent liv'd within three or four Miles of the ſaid Place.—Says, my Lord had a Child whom he call'd his Son, and who by others was call'd Maſter *Anneſley*; and that he was reputed Lord *Altham*'s lawful Son; and Deponent was very frequently in Company with Lord *Altham*, and ſays, his Lordſhip was very kind and fond of the Child, and behaved to him as his own Child.—Says, he knew Lord *Altham* better than a Year, and that he viſited Deponent and other Neighbours

bours with the Child.---Says, he had a white Feather in his Hat. Being aſk'd, if he believ'd the Child to be my Lord's lawful Son; Deponent proteſts, that if the beſt Duke in *England* had brought a Baſtard to viſit in his Family, he would have reſented it, and cut his Noſe; and that he always look'd upon the Child as Lord *Altham*'s lawful Son.--Says, that being invited to the Houſe of one Mr. *Redmonds*, he met my Lord *Altham* there; and that they toaſted, *That the Child might live to be Earl of* Angleſey.---Says, that my Lord thank'd the Company, and took the Health as a Compliment.—Believes the Child was then ſeven Years old, or thereabouts, and that my Lord uſed to take him on his Knee.--Says, that my Lord uſed to take the Child with him to **Hurlings*; and bought a little Horſe for him to ride upon; and that the Child was dreſſed very gay. Being aſk'd, if he knew him now; ſays, he cannot ſwear to him at this Diſtance of Time. Being aſk'd, if he knew to what Place my Lord went from *Carrickduff*; ſays, he does not know.---Says, that ſomething ſtruck Deponent as to Mr. *Anneſley*'s Features when Deponent was lately introduced to him: But being aſk'd, whether, if he had met him without being introduced to him, he ſhould have known him; ſays, he ſhould no more have known him than the King of *Morocco*.

Twenty-fifth Witneſs. *Charles Cavenagh* ſays, he knew Lord *Altham* about twenty or two and twenty Years ago at *Carrickduff*, and knew him there about two Years; ſays, he ſaw a Child there about ſix or ſeven Years old, whom Lord *Altham* ſaid to be his Son, and treated as ſuch.--That his Lordſhip ſeemed very fond of him; and the Child was reputed to be his Son, and treated as ſuch by the Servants, that is, with good Manners and Reſpect; and (to the beſt of Deponent's Memory) they called him Maſter *James*.

Twenty-ſixth Witneſs. *Nicholas Duff* ſays, he knew Lord *Altham* when he lodged in *Croſs-lane*, *Dublin*, about twenty or one and twenty Years ago; and he had a young Gentleman with him who was call'd *James An-*

* *Hurlings* is a Diverſion uſed in *Ireland*, much like the Game of Cricket.

neſley,

neſley, and my Lord treated him as became a Lord's Son; and Deponent is ſure he was his own Son by my Lord's own Declarations.---That Deponent kept a Publick Houſe in *Loftus's Lane*, near *Croſs-lane*, and heard Lord *Altham* ſay, *If I live to be Earl of* Angleſey, Jemmy *will be Lord* Altham.--For that Lord *Altham* was very free and familiar with Deponent, and uſed to drink with him.--Says, *Jemmy Anneſley* went to School in *Proper-lane*, to one *Daniel Carty*, and two of Deponent's Sons went likewiſe to the ſame School; and that Deponent ſaw a Servant, who (Deponent was told) was my Lord's Servant, attend the Child in going to School, and coming from it; and that the Servant wore my Lord's Livery. Says, the Child was ſometimes call'd Maſter *James*, and ſometimes Maſter *Anneſley*, and ſometimes the young Lord *Altham*; and he was then about eight Years old, as near as Deponent can gueſs.----Says, my Lord lived about a Year in *Croſs-lane*.—Being aſk'd, if he heard of one Miſs *Gregory*; ſays, that one Miſs *Gregory* was in my Lord's Family; and that ſhe, along with one *Betty Leſter* (a Butcher's Daughter) uſed to viſit Deponent's Houſe, and call for Liquors: And Deponent ſays, that no body gainſaid the Child to be my Lord's lawful Son.—Says, my Lord at another Time told Deponent, *You may live to ſee this Child Earl of* Angleſey.---Says, *Carty* kept a *Latin* School, and that Children of reſponſible People were put there.

Croſs Examined.

Being aſked, if he ever carried a Chair, ſays, *What of that? I am a Gentleman now.* Being aſked if he is Porter to Mr. *M'Kircher*; ſays, *No, I don't go of Errands.* Being aſked if he opens Mr. *M'Kircher*'s Door to People; ſays, *Sometimes I open it. But I have no Wages, I tend to oblige Mr.* Anneſley *and Mr.* M'Kercher. *I came from* London *to oblige Mr.* M'Kercher, *I was acquainted with him there. I heard in* London *that Mr.* Anneſley *was returned from Tranſportation, and that he lodged at one* Henderſon's; *and it was Mr.* M'Kercher *told me where Mr.* Anneſley *lodged.* He was aſked if he ever ſwept before Mr. *M'Kercher*'s Door; he reply'd him in an angry and loud Tone, *No.* Being

aſked

asked how long he had the Coat now on his Back; ſays, *ever ſince I bought it laſt Spring*. And Deponent added, *Why don't you ask me where I bought this Whig?* Says, he was formerly a Farmer before he came to *Dublin*.

Twenty-ſeventh Witneſs. *Catharine O Neale*, who being ſworn and examined, ſaid, ſhe knew the late Lord *Altham*, that ſhe was employed by him as a Servant to take Care of his Son at *Carrickduff*, in the County of *Carlow*, about Twenty two or Twenty-three Years ago; ſaid, ſhe waited on him a Year there, and the Son's Name was *James*; that afterwards Lord *Altham* went to *Dublin*, and lived at *Croſs-Lane*, that he ſent for the Child to *Carrickduff* to be brought to *Dublin*, and that the Witneſs came with the Child thither; that the Child was ſupported and kept as a Lord's Son; ſaid, Miſs *Gregory* was at *Carrickduff* when the Witneſs was hired, and her Name was *Sarah*, and reputed a Relation of Lord *Altham*, that Miſs *Gregory* lived with his Lordſhip in *Dublin* as a Companion;——ſaid, the Child's Birth-night was kept at *Carrickduff*, with Rejoicings and Bonfires, and that the Child was about eight Years old, when he came to *Dublin*; ſaid, that when Lord *Altham* lived at *Inchicore*, the Boy came to her at *James-Street* in this City in a very bad Dreſs, and deſired the Witneſs to go to Lord *Altham*, to get him ſomething for his Relief; that ſhe accordingly went to Lord *Altham*'s, and told him in what Condition the Son was in?——To which his Lordſhip anſwered, that he paid for his Diet and Lodging, at Mrs. *Cooper*'s in *Ship-Street*, and that Mrs. *Cooper* had complained of him, and until he grew better, his Lordſhip would do nothing for him. At which the Witneſs ſaid to his Lordſhip, that that was only a Contrivance of Miſs *Gregory*'s; whereupon his Lordſhip ſaid, that there could be no Peace in the Houſe, for that Miſs *Gregory* did not like the Child, and therefore he was ſent abroad; heard that Lord *Altham*, after he left *Croſs-Lane*, lodged in *Proper-Lane*; ſaid, it was half a Year between the Time ſhe left the Child at *Croſs-Lane*, and the Time ſhe ſaw Lord *Altham* at *Inchicore*;——ſaid, that after ſhe left the Child in *Dublin*, ſhe went again into the Country, and ſoon after returned; that

Lady *Altham* sent her Servant to the Witness to go to her Ladyship; that she accordingly went to her Ladyship to *Stable Lane*, where she lodged. Then her Ladyship asked her how Miss *Gregory* behaved to her Son *James* when at *Carrickduff*? Witness answered, that Miss *Gregory* behaved very well, and as a Relation towards the Child, but how she used him in *Dublin*, she did not know; says, Lady *Altham* wrote a Letter, and sent it by her to Mrs. *Weed*, Lord *Altham*'s House keeper, who came from *England* with her; that Lady *Altham* said she would willingly see her Son, but for fear the Servants should be turned away and lose their Bread; said, she should know him again, and that she saw him near twelve Months ago at *Linnen-hall Street*—and swore he was the same Person. She was then desired to look about the Court, and see if she knew any Person there to be the One she mentioned.—She looked and pointed to Mr. *Annesley*, who was then in Court.

Cross Examined.

She contradicted herself as to the Time of seeing the Child in *Dublin*, and of her Conversation with Lady *Altham*; and said, Lady *Altham* lodged at one *Cavenagh*'s House in *Stable-Lane*, but did not know *Cavenagh*'s Christian Name.

Twenty-eighth Witness. *John Byrne*, Brewer, who being sworn to the *Voire dire*, answered the Questions, and being sworn in chief,——said, he had seen *Arthur* late Lord *Altham*, but was not intimately acquainted with him, and that his Lordship lived in *Proper-Lane* in this City about Nineteen Years ago; that he knew none of his Family but a Miss that he kept and a little Boy; and was told that the Child was left in the House at *Proper-Lane* when Lord *Altham* quitted the House.—— And that the Child was called Master *James*, that he saw the Child at Lord *Altham*'s Door and Window, and used to run into the Witness's Yard to play; that he verily believed that the Person he now sees in Court, Mr. *Annesley*, is the very same Person that he saw a Boy, and that it was the general Reputation that he was Lord *Altham*'s Son and Heir, and never heard to the contrary, till he heard that he was in the *West-Indies*;——His Knowledge of him is, that he often saw him with the Witness's

Witneſs's own Son playing, and verily believes him to be the ſame Perſon, and is ſtrongly of that Knowledge and Belief, from his Phyſiognomy and Features, and that he was then about eight Years old, and pointed to Mr. *Anneſley* then in Court.

Croſs Examined.

Said, that he did not know how long Lord *Altham* lived in *Proper-Lane*, but that he went to live at *Inchicore* after his Lordſhip left *Proper-Lane*, and left the Boy in the Houſe, and did not ſee him ſince the Year 1724; ——ſaid, the Boy was in very different Apparel, and was told, that there was a Diſagreement between the Boy and Miſs *Gregory*, and he quitted his Father's Houſe.—— Does not know that the Boy lay in his Stable or Hay-Loft, but often ſaw him afterwards in the Witneſs's Yard, and believed his Son gave the Boy ſome Support, but his Son did not tell him of it.

Lord Chief Baron. You ought to give ſome Evidence where this Perſon was, before you go to prove the Phyſiognomy of the Man.

Council for the Plaintiff. We would do it, but would not keep Mr. *Byrne* waiting.

Twenty-ninth Witneſs. Mrs. *Charity Blake*, who being ſworn and examined,——ſaid, ſhe knew Lady *Altham*, but never heard from her Ladyſhip ſhe was with Child, that ſhe was often in Company with her Ladyſhip at *Temple-Bar*, and it is Thirty Years ſince ſhe ſaw Lady *Altham*, and the laſt Time ſhe ſaw her was about the Troubles in *Scotland*, and when it was reported that the Pretender was in *Scotland*;——that the Witneſs was then a Maiden, and her Name was *Anneſley*—— ſaid, ſhe heard by common Report that Lady *Altham* had a Child, but whether Male or Female ſhe knew not, but never heard it from Lady *Altham*;—that the Witneſs was ſoon after married and lived a-far off, and had no Correſpondence with her Ladyſhip after;—ſaid, the Witneſs's Father having an Affair depending before the Houſe of Lords in this Kingdom, and Lord and Lady *Altham* then being in the Country, ſhe wrote a Letter to his Lordſhip, deſiring his Attendance, that ſhe received an Anſwer, that either he or his Lady was then

ill, and he could not come, but from which of them she received the Answer, she could not be positive.

The foregoing Examinations on the Trial, lasted till Half an Hour after Ten of the Clock at Night, when the Parties and their Attornies signed a Consent for an Adjournment to *Monday* Morning, the 14th of *November*, 1743, at Nine o'Clock in the Morning, and Consent was openly read in Court, and ordered to be received, which was accordingly done, and the Court was adjourned accordingly.

The third Day of the TRIAL.

Monday, *November* 14, 1743.

THE Court having sat pursuant to Adjournment, and the Parties, Plaintiff and Defendant, having appeared by their Attornies, and the Jury being called over, they severally appeared, and being together in the Box, the Trial was proceeded on as follows:

Council for the Plaintiff. My Lords, and you Gentlemen of the Jury, from the Necessity of the Plaintiff's Case, we must proceed to the further Examination of Witness, and as the Plaintiff's Case was stated, and the Witnesses we are to examine are so many, we will take up as little of your Lordship's Time as the Nature of the Case will admit, and therefore we shall call them.

Thirtieth Witness. *Edward Lutwich*, who being sworn and examined,—said, he was a Trooper in Brigadier *Napier*'s Horse, and was quartered in *Ross* the Summer before the War was proclaimed against *Spain*, in the Year 1717 or 1718, and knew Lady *Altham* then at *Ross*;——That the Witness being by Trade a Shoemaker, he

he worked at his Trade, and was recommended to Lady *Altham* to work for her; that her Ladyship sent for him to her Lodgings, at one *Wright*'s, that he went there, and her Ladyship asked him if he could make her a Pair of Slippers, and Shoes of White Damask for her, he said he could, but then was so busy he could not do them immediately, whereupon her Ladyship gave him ten Days to do them; that soon after he was sent for again, and was surprized to be sent for so soon, he went to wait on her Ladyship at the same House, and there saw a Child about two or three Years old, her Ladyship asked him if he could make her Child a Couple of Pair of Shoes, he said he could, but that he had not then the Leather, as one Pair was to be Red, and the other Black,——said, she gave him two Days for the making of them, on which the Witness said in that Time he could have them, that he went away and returned in the two Days with the Shoes, and on going to the House, he asked if the young Lord was at Home, the Maid answered no, but that the Lady was, that Lady *Altham* came to him, and said she would pay for the Shoes; but that the Child went away the Morning before, and added that she had better have been the worst Tradesman's Wife in the Town than Lord *Altham*'s, for that then she could see her Son, and have him oftner, that he took Measure of the Child he standing at the Window; then gave an Account of the Officers of the Regiment, and described the Town of *Ross*,——said, he never was at *Dunmain* House, but went by it.

Cross Examined.

Said, that he was at *Ross* ten Months, and would have continued there a Year, but the Troop was called away,——said, when he first went to wait on Lady *Altham* the Child was not there, he was shewn into a Parlour by the Maid-Servant, and that the Parlour was on the Left-hand, that Lady *Altham* came down Stairs to him, he took her Measure, and she gave him the White Damask to make her Shoes and Slippers, and went away, and went there again in two or three Days, being sent for, and on his coming the Child was there, and a Woman with him, that the Child was about three Years old, and was well dressed,——said, it was then well known in

Ross,

Ross, that Lady *Altham* was parted from her Lord, that his Place of Residence is now in *London*, and was last in the Life Guards there, and that he now has a small Freehold in *Suffolk*, and works for the Speaker of the House of Commons in *England*; that he has been three Weeks in this Kingdom, and has known Mr. *Kircher* since the Trial of the young Nobleman in *England*,——said, that hearing of that Trial, he was sure, he was the Son of Lady *Altham* that he saw at *Ross*, and expressly said, that Lady *Altham* said to the Witness, make the Shoes for my Child;——said, when at *Ross*, he worked for Mr. *Loftus*, Miss *Tounge*, and several others, and wrought for the two Troops there, and had Work enough amongst them; that he worked for several others, and said them that he liked he would work for, and them that he did not like, he would not work for; that he was not at *Ross* or County of *Wexford* since.

Thirty-first Witness. *Bartholomew Furlong*, who being sworn and examined,——said, he knew Lord and Lady *Altham* about thirty Years ago, that the Witness was then employed by some Persons to buy Corn for them, that he met Lord *Altham* a Hunting, who asked the Witness if he did not buy Corn, the Witness answered he did, then said Lord *Altham* buy me twenty Barrels of Oats for my Horses; that the Witness bought ten Barrels, and sent them into his Lordship's Stables, and also bought for his Lordship Butter, Cheese, and Bacon;——said, that about a Year after he went to *Dunmain*, with Bacon from *Pierce Sutton*, and saw Lady *Altham* there big with Child and ready to Lye-in,——said that the Witness applied to *Sutton*, to apply to Lord *Altham* to get the nursing of Lady *Altham*'s Child, for the Witness's Wife,——that *Sutton* desired the Witness to go to Captain *Tench*, and get a Letter wrote to Lord *Altham* for that Purpose; that accordingly he got a Letter from Captain *Tench*, went with it to *Dunmain*; that Lord *Altham* being abroad a Hunting, the Witness waited at the Gate till he returned from Hunting, and gave his Lordship the Letter, who read it; that Lady *Altham* coming out to meet his Lordship, his Lordship gave her the Letter, and said this is from Captain *Tench*, recommending the Bearer to your Nursing; that Lady

Altham

Altham made anſwer, ſhe would do any Thing to oblige Captain *Tench*; that her Ladyſhip asked the Witneſs if his Wife was a young Woman, the Witneſs ſaid ſhe was, then her Ladyſhip ſaid ſhe would have her, if Doctor *Brown* of *Roſs* liked the Witneſs's Wife, and asked the Witneſs what Wages he would have, the Witneſs anſwered ten Pounds a Year, her Ladyſhip ſaid that is too much, for that the Perſon who is to nurſe for her, muſt live in the Town with her Ladyſhip; Lord *Altham* ſaid, he would give ſix Pounds a Year, two Acres of Land, and build him a Houſe, and Lady *Altham* ſaid ſhe would give him twenty Shillings more, and on that Lady *Altham* gave the Witneſs an *Engliſh* Half Crown,——ſaid, when he went Home he told his Wife thereof, and bid her wait on Lady *Altham*; that the Witneſs went to *Waterford*, and on his return Home, his Wife told him that in his Abſence, ſhe waited on Lady *Altham* at *Dunmain*, and that Doctor *Brown* was there, that Doctor *Brown* examined her and found her Milk bad, and required of her the Cauſe,——ſaid, ſhe believed it was occaſioned by her own Child's being taken ill before,——ſaid, he went often to Lord *Altham*'s Houſe after, and ſaw Lady *Altham*, who ſaid to the Witneſs that ſhe was ſorry that Doctor *Brown* had found Fault with his Wife's Milk,——ſaid, he did not know, but by the Report in the Neighbourhood, that Lady *Altham* was brought to Bed of a Son;——ſaid, that about a Year and a half after he went to *Dunmain*, and ſaw Lady *Altham* with the Child, holding him by the Leading-Strings, that a Woman came there with young Chickens to ſell, took off a Cloath that covered the Basket, and took out a live Chicken, and the Child cried for it, and Lady *Altham* deſired the Witneſs to give the Child the Chicken, which the Witneſs did; that Lord *Altham* came out, and ſaid to his Lady, what Delight the Child takes in the Chicken, on that Lord *Altham* ſtooped and kiſſed the Child,——ſaid, the Child was called *Jenny*.

Croſs Examined.

The Witneſs ſaid, he is fifty-three Years old, had three Children, and was married twenty-three Years;——ſaid, his Wife was two Months brought to Bed, before he applied for the nurſing, and to the beſt of his Know-

Knowledge, the Application was in *February* or *March*, that his Son was born before then, but how long he could not tell; could not justly tell when he applied for the nursing, nor whether it was in *February* or *March*. And being further examined,——said, it was about that Time.——And that his Child was better than a Month old when he applied for the nursing, that *Pierce Sutton* is dead, and that *Sutton* lived about two or three Miles from *Dunmain*, and that the Witness lived about the same Distance, but *Sutton* lived neareſt; that *Sutton* was acquainted with Lord *Altham* and sold Corn.——Could not tell whether Lord *Altham* wore his own Hair or a Wig, but that he was a low small Man, and that Lady *Altham* was taller than his Lordship, she being a tall Woman, with good Complexion and Features; and being asked what he meant by Complexion, he said the Colour of her Face, not very white nor fair, but a little red; that Lady *Altham* was of a brown Complexion, and somewhat towards black, and that her Ladyship had more white than his Wife, and thought her Ladyship handsome, but that his own Wife more pleasing to him; that he knew Doctor *Brown*, and that he is dead, but how long he knew not, he living out of the Country;——said, he did not speak to Doctor *Brown* about his Wife; that he had got Four Shillings and Six-pence a Barrel for Oats, and that Lord *Altham* paid the Money as soon as the Oats were delivered;——said, he made the Agreement for the Nursing both with the Lord and Lady *Altham*, and that her Ladyship gave him the *English* Half-Crown on the Bargain;——said, Captain *Teuch* is not alive that gave him the Letter, nor was there any Person present when he gave the Letter to Lord *Altham*,——he having just come from Hunting;——said, the Child cried for the Chicken, it having ran away from him. Lord *Altham* said, *Jemmy*, don't cry, and then kissed him, that the Child did not speak, but stretched out his Arm and cried.

Thirty-second Witness. The Right Honourable *Hugh Montgomery*, Earl of *Mount Alexander*, who being sworn and examined, said, he knew *Arthur* late Lord *Altham*, that Lord *Mount Alexander*, the Lord *Altham*, and Captain *Grove*, were one Night eating Oysters together;

gether: And Lord *Altham* ſaid to *Grove*, By Gad, my Wife has got a Son, that will make my Brother's Noſe ſwell. And Lord *Mount Alexander* ſaid, upon his Oath and Honour, Lord *Altham* ſaid them Words in his Preſence, at one *Sprigg*'s Houſe on the *Glibb*, but did not know the certain Time.

Croſs Examined.

Said, he never heard that Lord *Altham* had a Baſtard, nor never knew or heard of any Separation between Lord and Lady *Altham*, nor did he viſit them; ſaid, the aforeſaid Perſons met almoſt every other Night together at *Sprigg*'s Houſe and eat Oyſters, and believ'd it was about Winter they met; and had no other Converſation about Lord *Altham*'s having a Son; that they had met about a Fortnight before the Time Lord *Altham* had made that Expreſſion, but did not hear Lord *Altham* ſay any thing of it before, and did not remember to have ſeen Lord *Altham* after at *Sprigg*'s, or hear him ſay any other Thing of his Son.

Thirty third Witneſs. *Margaret Hodgers*, being ſworn and examined, ſaid, ſhe knew Lord and Lady *Altham*, and ſaw Lady *Altham* once at Mr. *King*'s, the Apothecary's in *Charles-ſtreet*, in the Year 1723; ſaid, ſhe lived near it, on *Ormond* Quay; ſaid, ſome Perſon came to her Houſe to take Lodgings for Lady *Altham*, that they agreed with her for ſixteen or ſeventeen Pounds a Year to board and lodge Lady *Altham*, and was proud to have a Lady with her, being a ſingle Woman; ſaid, it was a Man and a Lady's Woman that made the Agreement with her, gave her a Piſtole Earneſt, and Lady *Altham* was to go there the next Day; ſaid, the next Day, the Man came to her, and told her that the Lady was under the Doctor's Hands,—and adviſed her Ladyſhip not to ſtir, for that the Air on *Ormond* Quay was too ſharp for her Ladyſhip:—On that the Witneſs gave him back the Piſtole, which ſhe had received as Earneſt; ——ſaid, that having called on one Mrs. *Lloyd*, a Neighbour on *Ormond* Quay, ſhe told Mrs. *Lloyd* how ſhe was ſerved after getting her Houſe in Order, and that ſhe gave back the Earneſt. On which Mrs. *Lloyd* deſired the Witneſs to go to Lady *Altham*... and know the Truth of it;——that ſhe went to Mr. *King*'s Houſe, went up Stairs to Lady *Altham*'s Room, and went in,—

that Lady *Altham* was sitting, being weak in her Limbs, that she told Lady *Altham* how she had been treated,—Lady *Altham* begged the Witness's Pardon for not stirring, she being so weak. That they afterwards fell into a Chat, as the Witness being an *English* Woman; that Lady *Alt'am* asked the Witness her Reason for coming to *Ireland*; she said, it was to get Money; that Lady *Altham* wish'd her better Luck than she had, for that a Misunderstanding was between her and her Lord, and wished she never came into this Kingdom. Upon which the Witness asked her Ladyship, if she had any Children?——Her Ladyship answer'd, she had a Son; said, the Woman that took the Lodgings of her was Mrs. *Heath*.

Cross Examined.

Said, she never saw Lady *Altham* before or since;—— that the Witness came into the Kingdom in the Year 1720, and has been here ever since; and now lives within half a Mile of Lord *Hoath*'s, and has the Honour often to dine with Lord and Lady *Hoath*; that she knows not whether Mr. *King* be living or dead, and that he lived in *Charles-street*, —— said, she did not know whether the Woman she had the Discourse with at Mr. *King*'s was the Lady *Altham* or not, but what she heard and was told by the Maid.—— The Witness being desired to describe the Features of Lady *Altham*, she said, as far as she could judge by her sitting, she was a tall Woman, and of a swarthy Complexion, and said no Person was present at their Discourse.

Thirty-fourth Witness. *Thomas Byrne*, Brewer, being sworn to the *Voire dire*, answered the Questions, —— and being sworn in Chief, and Examined, said, that he saw the late Lord *Altham* several times in *Proper-lane* Nineteen or Twenty Years ago, and remembers that his Lordship left *Proper-Lane* in the Year 1724; that Lord *Altham* had a Boy there, who was reputed his Lordship's Son; said, his Reason for knowing the Boy was, that they often play'd together, and that the Witness's Father liv'd in that Neighbourhood; and his Reason for being so particular as to the Time when Lord *Altham* left *Proper-Lane*, was, that the Witness's Father, *John Byrne*, returned that Year from the Country

to *Dublin*; said, they did not go to School together, for that the Witness went to School at the Cloysters, but that Lord *Altham*'s Son went to School to one *Carty* in *Proper-lane*, and that he often call'd on Lord *Altham*'s Son at School; that Lord *Altham* lived in *Proper lane*, and that the Boy lived in the House with his Lordship; ——said, he never saw Lord *Altham*, or the Boy together, but once, which was when the Witness and the Boy were playing together in the Street; that Lord *Altham* called the Boy, and said, *Jemmy* come in, and bring Master *Byrne* with you, and they went in together; —said, that when Lord *Altham* left *Proper lane*, he left his Son there; that soon after the said Boy came to take his Leave of the Witness, and told the Witness that Lord *Altham* was sending him to Mr. *Cavenagh*'s, a Dancing-Master, that he might put him out to lodge and board; ——said, that the Boy was two or three Years younger than the Witness; that, in some short Time after, the Boy came to the Witness and told him, that he the Boy had been very ill used, where he was put, and that he the Boy would stay there no longer, and that Mr. *Cavenagh* had also turn'd him out of Doors; that thereupon the Witness desired the Boy to go to *Inchicore* to his Father the Lord *Altham*. The Boy said, he would not? for that one Mrs. *Gregory*, who was there, would never let him alone. And therefore the Witness could not at that Time prevail on the Boy to go to his Father's: Upon which the Witness desired the Boy to stay with him, as long as he pleased; said, the Boy stay'd with him about Five or Six Weeks, and that when the Witness's Father was not in Town, but the Witness at Home by himself, the Boy would lie with him in one Bed: And that when the Witness's Father was in Town, and at Home, the Boy lay in the Witness's Father's Hay-loft; said, the Reason for the Boy's lying in the Hay-loft, when his Father was in Town, was this, that his Father had no Family in Town, that the Witness lay in a Closet within his Father's Room, and could not get the Boy in; said, he gave the Boy Meat and Drink, from the Intimacy and Friendship they had contracted together as Play fellows; said, Lord *Altham*, nor any of his Lordship's Family, took then any

Care of the Boy, nor did they know where he was, to the Knowledge or Belief of the Witneſs——ſaid, the Boy grew tir'd of ſtaying with the Witneſs, after the Manner he was, and the Boy ſaid, he would go Home to his Father's to *Inchicore*; ——ſaid, when the Boy went firſt to live in *Proper-lane* at his Father's, Lord *Altham*'s Houſe, the Boy was very well dreſs'd in Scarlet;——ſaid, all the beſt young Boys in the Neighbourhood, were fond of Lord *Altham*'s Son, who were Capt. *Eam*'s Son, two Sons of *Robert Byrne* the Brewer, the Son of one *Reily*, another Brewer, and two Sons of one *Reily* where the Witneſs lodged and boarded, when the Witneſs's Father was abroad and in the Country before he came to Town;——ſaid, he never ſaw the Boy from the Time he ſaid he would go Home to his Father's to *Inchicore*, until he returned into this Kingdom;——ſaid, he was in the *Globe* Coffee-houſe about a Year ago, that Mr. *Matthews* the Brewer, invited the Witneſs to dine with him on the Morrow. The Witneſs ſaid he would; that the next Day, he met the ſaid *Matthews* and the Witneſs's after Change-Time. They called for a Coach, and bid the Coachman drive to *Jervis Street* to the Houſe of one *Moor*, an Apothecary;——ſaid, that when they came there, they all went into the Houſe, and was ſhewed up to a Dining-room, that they had not been long there, when Mr. *M'Kircher* came into the Room, that he never ſaw Mr. *M'Kircher* before, that Mr. *M'Kircher* ſaluted the Company; and ſaid Mr. *Matthews* and the Witneſs's Father were acquainted with Mr. *M'Kircher*; that Mr. *M'Kircher* ſpoke very civilly to them, and ſoon after three more Gentlemen came into the Room; ſaid, that after the Gentlemen were come in, Mr. *Matthews* called to the Witneſs, and ſaid to him, *Tom*, do you know any of theſe Gentlemens Faces? that the Witneſs looked at them, and ſaid he knew none of them, but Mr. *Anneſley*, and then ſaid he knew him when a Boy at Lord *Altham*'s in *Proper-lane*;—ſaid, before he went to *Jervis Street*, he heard that Mr. *Anneſley* had returned to *Ireland*, but that he had not ſeen him before, and ſaid he had not any Converſation with Mr. *Matthews*, or with his the Witneſs's Father about it, nor did he know, nor was he told,

where

where Mr. *Annesley* lodged, and that Mr. *Annesley* was then but about two Days come over to *Dublin*, and that Mr. *Matthews* lived on *Usher*'s Quay; said, he heard the Night before that Mr. *Matthews*, and his Company that came over with him from *England*, were in *Crane-lane*, and was told at the Coffee-house the next Morning, that they had sent for the Witness, and that they wanted him. Said, he knew Mr. *Annesley*'s Face, when he saw him, as perfect as any Face, and swore that Mr. *Annesley*, whom he then saw in Court, was the very same Person he knew when a Boy, and his Play-Fellow in *Proper-lane*.

Cross Examined.

He was asked, by the Defendant's Council, who were the Lord *Altham*'s Family in *Proper-lane*, the Witness said, that Miss *Gregory*, her Father, some Servants, and Lord *Altham*'s Son, were the Family, and gave the same Account of the Witness's going to School, and the particular Knowledge of Lord *Altham*'s Son, as on his original Examination; said, that it was reported in the Neighbourhood, that Mr. *Annesley* was Lord *Altham*'s Son;——said, he did not know what Scholars were at *Carty*'s School, the Witness not being at or going to that School as a Scholar;——said, he was but once at Lord *Altham*'s House, and that at the Time when the Witness and Lord *Altham*'s Son were playing at Marbles, and believed that he was then three Years younger than the Witness;——said, that Lord *Altham* lived at *Inchicore*, after living in *Proper lane* for one Year, and that the Boy was left there in the House with a Maid-servant and a Boy-servant;——said, he did not see the Boy for five or six Months after he took his Leave of him to be boarded by *Cavenagh*; said, he never talked with the Boy about his Mother, nor did the Boy ever tell the Witness, or talk about his Mother at all, or whom she was. The Witness further said, he always looked upon himself to be about three Years older than Mr. *Annesley*, and that it was about the latter End of the Year 1724, that Lord *Altham* left *Proper-lane*.

Thirty-fifth Witness. *Michael Waldron*, Gentleman, one of the Attorney's of the Court of Exchequer, who being sworn and examined, said, he saw the late Lord *Altham*;

tham; that he ſaw a Child of his that went to School in *Warborough ſtreet* to one *Dunn*, and that the Child went under the Name of Lord *Altham*'s Son, but how many Years ago it is ſince, he could not remember, but that he was then about Ten or Eleven Years old; that the Witneſs went to *Dunn*'s School for Two Years, and that Lord *Altham*'s Son was there in that Time about Half-a-Year, but did not know where Lord *Altham*'s Son then lodged, but heard it was in *Sheep-ſtreet*;——ſaid, that Mr. *Cavenagh* the Dancing-maſter's Son went to the ſame School, and that Lord *Altham*'s Son was called the young Lord;—ſaid, that when the Maſter would correct Lord *Altham*'s Son, he would ſay, that if he was a Duke's Son, as he was only a Lord's, he would correct him; that the Witneſs went with his Siſter to *Cavenagh*'s dancing School, and ſaw the Boy there that went with him to *Dunn*'s School.

Croſs Examined.

Said, that on hearing Mr. *Annesley* was come here, he went to him, but would not take upon him to ſay he is the ſame Perſon that he ſaw at *Dunn*'s or *Cavenagh*'s School, for that he could not ſwear poſitively to his Face or Features at this Diſtance of Time.

[*Hereupon the Lord Chief Baron ſaid, that the laſt Time he was in* London, *as he was walking in* St. James's Park, *he accidentally met with a Gentleman whoſe Face or Features he could not remember, until he was reminded thereof, tho' he formerly had gone to School with him.*]

Thirty-ſixth Witneſs. *Barnaby Dunn*, School-Maſter, who being ſworn and examined;—ſaid, that he was a School-Maſter in *Blue-boar* Alley in *Warborough-ſtreet*, in the Year 1724; that Maſter *James Annesley* was put to him to School, as the Son of Lord *Altham*, by *Cavenagh* the Dancing Maſter, and was at his School for eight or nine Months;——ſaid, that when *Cavenagh* put Maſter *Annesley* to his School, he recommended him thus: As you regard me, take care of this young Gentleman as he is the Lord *Altham*'s Son;——ſaid, that he the Witneſs was afterwards introduced to Lord *Altham* by *Cavenagh*, at the ſaid *Cavenagh*'s Houſe, that Lord *Altham* ſaid to the Witneſs, I have had a good

Character

Character of you for inſtructing of Youth, I have ſent my Son or Child to you, take care of him, and you ſhall be rewarded ;——ſaid, that Mr. *Waldron* the Attorney, wrote the Witneſs a Letter to come up to *Dublin*, and repeated theſe Words of the Letter, to come up without Delay ;—ſaid, that when he came to Town he went to Mr. *Waldron*'s Lodgings, that *Waldron* kiſſed him, and ſaid he was welcome ; ſaid, that on ſome Diſcourſe with *Waldron*, he asked the Witneſs, if he did not remember Mr. *Anneſley*, Lord *Altham*'s Son, that went to School to him ? The Witneſs anſwered he did, and ſaid to *Waldron* that he went to School to him at the ſame Time ; that they agreed to go and ſee Mr. *Anneſley*, and accordingly they both went to *College-green*, where Mr. *Anneſley* lived ; and being there for ſome Time, Mr. *M'Kircher* and Mr. *Anneſley* came into the Room to them, and asked the Witneſs what he would have for Breakfaſt, that they drank Tea ;——ſaid, that on the firſt View he ſaw of Mr. *Anneſley* he recollected him, and knew him from an Obſervation he had of his Eyes, when he went to his School of having ſomething of a Caſt in them ; he pointed to Mr. *Anneſley* then in Court, and ſwore he was the ſame Perſon, and that from the Recollection he had of him when a School Boy, and was then about ten Years old ; and further ſaid, that by Virtue of his Oath, and if he was a dying Man, that Mr. *Anneſley* then in Court was the very ſame Perſon to the beſt of his Memory and Recollection.

Croſs Examined.

Said, that at the Time Lord *Altham*'s Son went firſt to his School, the Witneſs inſtructed the Lord *Kingſland*'s Son, and inſtructed him five or ſix Years at his Father's Houſe in *Queenſtreet* ;——ſaid, he had a Note in his Hand, whereby he could recollect the Time that Mr. *James Anneſley* came firſt to his School, and ſaid he came to him in *July* 1724, and ſtaid with him till the *Eaſter* following ;—ſaid, no Agreement was made with him for the Schooling, but *Cavenagh* told him he ſhould be well rewarded, but was never paid one Farthing ;—ſaid, he knew that Mr. *Anneſley* lodged in *Sheep-ſtreet*, for that Mr. *Anneſley* having abſented from School, he went to look for him but could not find him ; that afterwards he

came

came to School, and that the Witness reprimanded him for his Idleness, and said to him, if he was Earl of *Angleſey* he would correct him ;—said, that he did not learn Mr. *Anneſley* Latin but English, and found by him that he was instructed before, and believed he was nine, ten or eleven Years old when he first went to his School, but as to his Age he could not be particular.

Mr. *Thomas Byrne* called again, and being sworn and examined ;—said, that he believed it was about *May*, that Mr. *Anneſley* came to take his Leave of him as going to board, did not believe he ever saw Mr. *Anneſley* stripped naked when he lay with him, nor did he go to swim with him ; believed that the next Time he saw Mr. *Anneſley* after was in *November* ;——said, that it was early in the Year 1721, about *May*, that Lord *Altham* left *Proper-lane*, and about *Chriſtmas* following Mr. *Anneſley* came to lie with him ;——said, that his Father came back from the Country in *October* ;——said, Mr. *Anneſley* did not from the Time he came to lie with him go to School, but kept in and about his Father's Yard, and might be absent three or four Hours at a Time.

Thirty-seventh Witness. *Martin Plunkett*, who being sworn and examined ;———said, he knew *Arthur* late Lord *Altham* when he lived in *Proper-lane*, next Door to the Witness's Father in the Year 1723 ;——said, his Reason of Acquaintance with his Lordship was, that his Lordship kept a Pack of Dogs, and would go a a Hunting with him ; that the Witness was often in his Lordship's House, and saw and knows that his Lordship had a Son, and called him *Jemmy* ; that one Miss *Gregory* was there, that used to complain of Master *Anneſley* to his Lordship, and that the Witness used to get Pardon from his Lordship for the Child, and that he did the same twice or thrice, and believed the Complaints that were made of the Boy, was for telling Lies, or absenting from School ;——said, that both his Lordship and Miss *Gregory* called the Boy *Jemmy*, but never heard from them that the Boy was Lord *Altham*'s Son, but from the Servants in the House ;——said, the Manner of his excusing the Boy was, that the Witness hoped his Lordship would excuse Master *James*, and I the Witness will be bound for him, and that Miss *Gregory* was as a Mistress in the House,

Houſe, and any Thing ſhe ordered to be done, muſt be done;——ſaid, that Lord *Altham* was harſh to the Child, and it was generally reported in the Neighbourhood that the Child was his Son, and his legitimate and lawful Son, and never heard ſo much as Maſter *Anneſley*'s being ſaid to be a Baſtard, till Mr. *Anneſley* returned to *England*;——ſaid, that on Mr. *Anneſley*'s coming to *England*, the Defendant's Wife the Lady *Angleſey* ſent for the Witneſs; that he went to her Ladyſhip and ſhe asked him if he knew of a Baſtard Son, that lived with Lord *Altham* in *Proper-lane*, the Witneſs ſaid he did not, but that he knew a Boy *Jemmy Anneſley*, who was Lord *Altham*'s reputed Son; that Lord *Angleſey* then ſaid to the Witneſs, it is he that was the Baſtard, and my unfortunate Brother's; to which the Witneſs replied, and ſaid, that was the firſt Time that he ever heard Maſter *Anneſley* was a Baſtard;——ſaid, it was Lady *Angleſey* that firſt told the Witneſs that Admiral *Vernon* had ſent Mr. *Anneſley* home to *England*;——ſaid, he did not ſee Maſter *Anneſley* from *May* 1724, till the Month of *October* was twelve Months, and then ſaw him in a Houſe near *Mary*'s Church-yard in this City, where Mr. *Anneſley* lodged;——ſaid, that one Mr. *Cooke* a Linnen Draper, came to the Witneſs about the above Time, and enquired of the Witneſs if he knew how long the Witneſs had lived in *Proper-lane*, the Witneſs anſwered for twenty ſix Years, the ſaid *Cooke* then asked him if he knew Lord *Altham*, and his Son *Jemmy* there, the Witneſs ſaid he did, then *Cooke* told the Witneſs that Lord *Altham*'s Son was come over, and was then in *Dublin*, the Witneſs ſaid that was the only firſt Time and Day that he heard Mr. *Anneſley* had come over; that *Cooke* asked the Witneſs if he ſhould know Mr. *Anneſley* if he was to ſee him;——ſaid, it was pretty hard that he ſhould know one for ſo long a time paſt. On which, *Cooke* and the Witneſs agreed to go and ſee Mr. *Anneſley*;——ſaid, as they were going along *Mary*'s *Lane*, he paſed a while within himſelf, to recollect if he had any Idea of Mr *Anneſley*, and having recollected himſelf, ſaid to *Cooke*, he would hold a Dozen of Wine he ſhould know him; that when they came to the Houſe, he went into the Room without ever any Perſon ſpeaking to him, and many People

were in Company, the Witneſs went up directly to Mr. *Anneſley*, kiſſed him, and welcomed him to *Ireland*, and then pointed to Mr. *Anneſley* in Court, and ſwore he was the very ſame Man;—ſaid, from the melancholy Poſture, the Witneſs uſed to ſee Mr. *Anneſley* in, when Miſs *Gregory* complained of him, gave the Witneſs ſuch an Idea of him, that he ſhould have known him in *America*.

Croſs Examined.

Said, he was well acquainted with Lord *Altham*, that he uſed to hunt with him; that his Lordſhip left *Proper-lane* the latter End of *April* or the Beginning of *May* 1724; his Reaſon for being ſo particular was, that the Witneſs on 25th of *May* 1724, went to *France*, and returned back in *Auguſt* following, went to viſit Lord *Altham* at *Inchicore*, and ſaw his Lordſhip there, and that Counſellor *Bradſtreet*'s Father was then at his Lordſhip's; that in *September* following, he went again into *France*, and did not return till after *Chriſtmas*;——ſaid, he never ſaw the Child at *Inchicore*; nor did he enquire of Lord *Altham* about him; nor did he talk to Mr. *Byrne* about Mr. *Anneſley*; ſaid, that he came home from *France* a Week before *Chriſtmas*, in the Year 1724, and that the Witneſs was then about twenty or twenty three Years old; believed if he had not heard of Mr. *Anneſley*'s being here, and had met him any where elſe, he ſhould have known him, and believed, that any body who ſaw Mr. *Anneſley* about that Time when the Witneſs knew him firſt, would know Mr. *Anneſley* now.

Then the Defendant's Council ſaid, that all the Defendant's Witneſſes will ſwear the ſame Thing, as to the Identity of the Perſon.

Court. If there be any Occaſion to call any more Witneſſes to the Identity, you ſhall call them hereafter.

Council for the Plaintiff. My Lords, we will now call ſome Witneſſes, to prove in what a Condition Mr. *Anneſley* was in, after he was turned away from Mr. *Cavenagh*'s.

Thirty eighth Witneſs. *Amias Buſh*, Eſq; being ſworn and examined, ſaid, he remembers that when he was in the College a Student, he ſaw a Boy about

Ten

Ten or Eleven Years old, who got his Subſiſtance by running of Errands, and was called *Jemmy Anneſley*, who gave out himſelf that he was the Son of Lord *Altham*; —ſaid, the Impreſſion of the Boy was ſo ſtrongly in his Memory, that if he was a Limner, he could draw his Face from the Lines thereof, allowing the Difference now between a Man and a Boy;——ſaid, that he ſaw Mr. *Anneſley* laſt Night, and knows that he is the very ſame Man, and that he attended Deponent in the College for a Month or two, and intended, when he was a Boy, to take him down to the Country; that the Deponent wrote to his Grandfather, that ſuch a Perſon was with him, who went by the Name of the Lord *Altham*'s Son, and that he would bring him down to the Country, if he, his Grandfather, would permit him; that the Deponent received for Anſwer from his Grandfather, that if the Boy was Lord *Altham*'s Son, let him take care of him, and on that the Deponent turned the Boy away; ſaid, that when he ſaw him laſt Night the Deponent knew him and ſaluted him, and ſaid he knew him very well, and Mr. *Anneſley* ſaid to the Deponent in theſe Words, *I know you, Sir, and ſhall never forget your Kindneſs to me.*

Croſs Examined.

Said, the Boy often told him he was Lord and Lady *Altham*'s Son; ſaid, that he often examined the Boy, and told him he was an Impoſtor that took on himſelf that Name to excite Charity; that the Boy gave him ſubſtantial Reaſons to the contrary, and the Boy told him, that it was by the Means of a Miſtreſs his Father kept, that he was turned out of Doors; ſaid, that if he the Deponent knew ſo much of the World then, as he did now, he would have ſent to Lord *Altham*, tho' he did not know him, about the Boy;——ſaid, the Boy was in the Light of a Scull in the College; ſaid, the Deponent about the Year 1722 or 1723 entered the College, ſtaid there Seven Years, and took his Maſter's Degree.

Thirty-ninth Witneſs. *Dominick Farrell*, who being ſworn and examined, ſaid, he knew late Lord *Altham*, that he never had any Diſcourſe with him about Miſs *Gregory*, nor was there ever any Application made to

him about his Lordſhip's Son; ſaid, he had ſome Diſcourſe with Lord *Altham* about his Son, Mr. *James Anneſley*,——ſaid, that Mr. *Anneſley* came to the Deponent's Houſe, as the Deponent knowing him to be Lord *Altham*'s Son from his Infancy, having dealt with Lord *Altham*; that Maſter *Anneſley* was in a poor Condition, and the Deponent kept him in his Houſe for ſome Time, and would have kept him longer, but the Deponent's Wife would not let him, becauſe that Lord *Altham* owed the Deponent Six Pounds, and on that delivered Maſter *Anneſley* to one *Purcell*, a Butcher? ſaid, he went to Lord *Altham*'s to *Inchicore**, not only on Account of Maſter *Anneſley*, but for the Money his Lordſhip owed him, that the Deponent told his Lordſhip in what a poor Condition he had Maſter *Anneſley*, in his Houſe, and wanted Money from his Lordſhip for him: that Lord *Altham* bid the Deponent take Care of him; and ſaid I will pay you, not only for it, but what I owe you;——ſaid, he knew the Child at *Dunmain*, and ſaw him there with Lord and Lady *Altham* when the Child was Half a Year old, and had the Child in his Arms, and that Lord and Lady *Altham* acknowledged the Child to be their Son; that he had *James Anneſley* in his Arms, in the County of *Kildare*, and that he is the ſame Boy he ſaw at *Dunmain*, and ſaw him afterwards at Lord *Altham*'s Houſe on *Stephens-Green*, and knew him in *Proper-lane* at *Carty*'s School, and that Lord *Altham* then lived in *Proper-lane*; ſaid, that Lord *Altham* gave the Deponent for a Reaſon, when he applied to his Lordſhip about the Boy at *Inchicore*, that he would have kept him at Home, but that he ſhould have no Peace, for that the Boy and Miſs *Gregory* could never agree; that after the ſaid Diſcourſe with Lord *Altham*, and his Promiſe to pay the Deponent, he gave Maſter *Anneſley* ſome ſmall Money to get him Something abroad, his Wife not ſuffering him to keep Maſter *Anneſley* in his Houſe, and that he did not ſee the Boy for Three Weeks after, until he met the Boy on Horſe-back, riding a Horſe in *Smithfield*; that the Deponent met *Purcell*, the Butcher, there, and ſaid to *Purcell*, *Do you ſee that Boy*

* *Inchicore* is but one Mile from *Dublin*.

on

on Horseback, meaning Master Annesley? *Purcell* said he did. Then said the Deponent to *Purcell*, do you think that Boy to be a Lord's Son, and in such Circumstances? It would be a Charity to take care of him, and then recommended the Boy to *Purcell* to take care of him, because that *Purcell* had but one Son; and said to *Purcell*, that one Day or other the Boy would be able to make him amends; that *Purcell* said to the Deponent, since you tell me so, I will: That they called the Boy to them, and *Purcell* asked the Boy his Name. The Boy said, *James Annesley:* On which the Deponent said to the Boy, *Jemmy*, what have I done to you, that you have not been with me this three Weeks; That the Boy gave some foolish Excuse. That they desired the Boy to leave the Horse at Home, and come to them back again; said, that *Purcell* took the Boy home with him, and the Deponent went with him to *Purcell*'s House, that when they came to *Purcell*'s House, *Purcell* told the Story to his Wife; that she washed the Boy, gave him Cloaths, and put a Shirt of *Purcell*'s Son on him, and put the Boy to lie with *Purcell*'s Son, and that the Deponent saw the Child at *Purcell*'s after;——said, that *Purcell* is alive, but that *Purcell*'s Wife is not;——said, that he was subpœna'd to come up from *Cork*; that he had a Curiosity to see Mr. *Annesley*, and went to see him on *College-green*; pointed to Mr. *Annesley* in Court, and swore he was the very same Person;—said, Lord *Altham* was then in very low Circumstances, and owed the Deponent's Brother-in-law three hundred Pounds;——said, when he first knew Lord *Altham* he lived in *Pill-lane*, sold Silk Handkerchiefs and Stockings to Lord *Altham*, both for himself and his Wife, and went down in the Country to get his Money;——said, that it was his Brother-in-law, that kept the Inn where Lord *Altham*'s Horses stood; that he recommended the Deponent to Lord *Altham* for his Lordship's Custom.

Cross Examined.

Said, in *April* 1717, he went to *Dunmain* and saw Lady *Altham*, described her Ladyship to be of a fair Complexion and homely Face;—said, he saw her twice. Staid there one Night, and went away the next Morning; saw the Child there, and saw Lady *Altham* in the Parlour,

Parlour, and the Child appeared to be a Year and a Half or two Years old, and that the Nurſe had him—ſaid, the Child came into the Room after the Deponent went in; but did not know the Name of the Nurſe, nor whether ſhe was a dry or wet Nurſe, and never heard of the Name of the Nurſe; nor heard of the Name of *Joan Landy* or *Laffan*;——ſaid, he heard of the Separation between Lord and Lady *Altham*, and that in ſome Months after he was at *Dunmain*, he heard they had parted;—ſaid, he went to *England* after he came from *Dunmain*, and that it was after he returned from *England* he heard of the Separation;——ſaid, he was in *England* ſeveral Times from the Year 1715, to 1721 or 1722, four Times a Year; but the particular Stay he made at each Time, he could not remember;——ſaid, he was in *England* in the Year 1717, but whether in Spring or Autumn he could not recollect;——ſaid, he very ſeldom miſſed a Year from going to *England*;——ſaid, in his Thoughts, when he ſaw the Child at *Kinna*, in the County of *Kildare*, he took him to be four or five Years old; and believed it was in leſs than a Year after the Child went there, that he ſaw him, and the Child was then in Coat and Breeches;—ſaid, the Child had a Tutor at *Kinna*, and the Tutor was called in to the Child, to hear him rehearſe his Leſſon; which was the firſt Time the Deponent was at *Kinna*, or ſaw the Child there;—ſaid, when he ſaw the Child at *Kinna*, the Child was in Petticoats; that the next Time he ſaw the Child was at *Stephens-green*; and that the Deponent then kept a Ware-room in *Pill-lane*; ſaid, when the Child came to him, the Child was in very bad Cloathing;——believed the Child was with *Purcell* about a Year, and had the Small-Pox there; that the Deponent did not know how long he ſtaid in *Dublin* before he went to *Cork*, after he ſaw Mr. *Anneſley* in the Small-Pox; but believed it was a Year and a Half, and has lived at *Cork* eleven Years this *Chriſtmas*;——ſaid, the Child went to him, before Lord *Altham* went to live at *Inchicore*, and that the Deponent agreed with a Maſter that kept a Charity-School at *Mulian*'s Church, to teach Maſter *Anneſley*;—ſaid, he gave Maſter *Anneſley* Money from Time to Time, for about two or three Months before he went to *Purcell*'s;

could not be particular as to the Time that Lord *Altham* contracted the Debt with him; that the Deponent not having his Books here; but believed the Debt was due to him a Year and a Half before he went to *Dunmain.*

Fortieth Witness. *John Purcell* says, he is by Trade a Butcher. Being asked if ever he knew a Boy called *James Annesly*? says he did. Being desired to give an Account to the Court and the Jury how he became acquainted with him; says Deponent happened to go to *Smithfield* on a *Wednesday* Night about Seven o'Clock in the Evening, where he met Mr. *Dominick Farrell*, an Acquaintance of his, who shewed him a little Boy riding on a Horse, in a poor and mean Condition; and said to Deponent, *Purcell, is not this a melancholy Sight to see a Nobleman's Child in that Condition?* That thereupon Deponent asked Mr. *Farrell* who the Child's Father was; and Mr. *Farrell* told Deponent, it was my Lord *Altham.* That Deponent being surprised at this Account, asked Mr. *Farrell* what the Meaning was of his Father's suffering him to go in that Condition; that the Boy must certainly have been guilty of some very bad Tricks, to induce his Father to neglect him in this manner. That Mr. *Farrell* told Deponent, it was not owing to any Fault of the Boy's, but to the Influence of a Mistress whom my Lord was doatingly fond of, and who had taken an Antipathy to the Boy, and Mr. *Farrell* recommended him to Deponent as an Object of Pity. That thereupon Deponent called the Boy, and told him that if he would promise to be a good Boy, Deponent would take him under his Care, and that he should never want while Deponent had it. That on hearing this, the Boy kneeled down and thanked Deponent in the most earnest manner. That then Deponent took him Home to his own House, and introduced him to his Wife, telling her, *he had brought her a Present, and desiring her to take care of the Child, who might one Day or other live to make her amends for relieving him.* That Deponent's Wife asked Deponent who he was; and Deponent told her. That immediately she fetched a Pot of Water, and some Soap and Bran and washed the Child; and put him

on

on a clean Shirt of Deponent's Son's, and grew very fond of him. Says, moſt People uſed to call the Boy my Lord. That in ſome Time after the Lad took the Small-Pox, and all proper Care was taken of him in Deponent's Houſe. That after the Child was recovered of the Small-Pox, a Gentleman, (who was then called *Richard Anneſley*, and is the now Defendant, the Earl of *Angleſey*) came to Deponent's Houſe, and aſked if one *Purcell* did not live there; and ſaid, he ſuppoſed they ſold Liquors; that the Gentleman had a Gun in his Hand, and ſat down, and having called for a Pot of Beer, aſked Deponent if he had a Boy in his Houſe, called *James Anneſley*? To which Deponent anſwered, that there was ſuch a Boy in the Houſe, and called his Wife, and told her a Gentleman wanted to ſee the Boy. Says, the Child was ſitting at the Fireſide, and immediately ſaw Mr. *Richard Annesley*, tho' he could not ſee the Child by reaſon of the Situation wherein he ſat. Says, the Child trembled and cried, and was greatly affrighted, ſaying *that is my Uncle* Dick. Says, that when the Child was ſhewn to the Defendant, he ſaid, *So* Jemmy *how do ye do?* That the Child made his Bow, and replied, *Thank God, very well.* That the Defendant then ſaid, *Don't you know me? Yes*, ſaid the Child, *you are my Uncle* Anneſley. That thereupon the Defendant told Deponent that the Child was the Son of Lord *Altham*, who lived at *Inchicore*. To which Deponent replied, *I wiſh, Sir, you would ſpeak to his Father, to do ſomething for him.* Being aſked, if he is ſure Mr. *Richard Annesley* told Deponent that the Child was Lord *Altham*'s Son; ſays he is ſure he did, and that he mentioned that the Child's Father was then alive. Being aſked if Deponent underſtood that he meant that the Child was Lord *Altham*'s Baſtard; ſays he did not. That the Child called him Uncle, and begged of him to ſpeak to his Father to ſend Deponent ſomething that was handſome for his Kindneſs to him. That thereupon Deponent told Mr. *Richard Annesley*, he deſired no Gratuity, but wiſhed the Child's Father would take him into his own Care. Being deſired to repeat what *Richard Annesley* ſaid to the Child when he came in; ſays, he called him *Jemmy*, and aſked him how he did; and told him

he

he was glad to ſee him. Says, that the Child, to the beſt of Deponent's Memory, told his Uncle, he had fallen into the Hands of good People. Says, that ſome Time afterwards the Child was told of the Death of his Father, and that he was to be buried at *Chriſt's Church*; and the Child went there and ſaw the Funeral, and afterwards came home all in Tears. Being aſked when Lord *Altham* died; ſays, in *November* 1727. That in about three Weeks after my Lord's Death, Mr. *Richard Annesley*, (who was then called Lord *Altham*) came into the Market a ſecond Time, and ſent a Man (who belonged to one *Jones* a Butcher) to Deponent's Houſe, to deſire that the Child might come to the ſaid *Jones*'s Houſe in the Market; that thereupon the Child came, and told Deponent, that his Miſtreſs (meaning Deponent's Wife) wanted to ſpeak with Deponent; that Deponent accordingly went home, and was told by his Wife, that the Child had been ſent for to *Jones*'s Houſe, but that ſhe was afraid it was ſome Trick of his Uncle's to uſe him ill, and that ſhe did not care to let the Child go to *Jones*'s without Deponent; ſays, Deponent thereupon bid the Man return, and tell them the Child was coming; and then Deponent took a Cudgel in one Hand, and the Child in the other, and went to the ſaid *Jones*'s Houſe, where Deponent ſaw the preſent Earl of *Angleſey* (who was then in Mourning) with a Conſtable, and two or three other odd-looking Fellows attending about the Door; that Deponent took off his Hat and ſaluted my Lord, which he did not think proper to return; but as ſoon as he ſaw the Child in Deponent's Hands, he called to a Fellow that ſtood behind Deponent's Back, and ſaid to him, *Take up that thieving Son of a Whore* (meaning the Child) *and carry him to the Place I bid you*; that Deponent aſked him whom he meant by a thieving Son of a Whore; *Damn you*, (replied my Lord) *I don't ſpeak to you, but to that thieving Son of a Bitch, I'll ſend him to the D——l:* Upon which Deponent ſaid, my Lord, he is no Thief, you ſhall not take him from me, and whoever offers to take him from me, I'll knock out his Brains; that then Deponent took the Child, (who was trembling with Fear) and put him cloſe between his Legs. Being aſked how long it was after

Mr. *Richard Anneſley* came to Deponent's Houſe, that he ſent for the Child to *Jones*'s; ſays, it was about ſix or ſeven Weeks, and, to the beſt of Deponent's Remembrance, in the Month of *December*. Says, he aſked the Uncle, by what Authority he would do what he threatned? To which the ſaid Mr. *Richard Anneſley* made Anſwer, that he could not make his Appearance at the *Caſtle*, or any where, but that he was inſulted on that thieving Son of a Whore's Account. That thereupon Deponent ſaid, he was ſurprized that a Gentleman, who made the Appearance that Defendant did, ſhould ſhew ſo much Malice to deſtroy a poor Creature that was no Expence to him, either for Cloaths or Maintenance, tho' it would better become him, who was the Child's Uncle, to provide for him, than to ſuffer Deponent, who was a Stranger to him, to do it; that the Defendant expreſſed a great deal of Anger at his not being able to compaſs his Ends; and after ſome high Words had paſs'd between them, Deponent ſeeing the Conſtable go off, went away with the Child in his Hand, and carried him home ſafe to his Mammy, (Deponent's Wife) as he called her. Some time after, Deponent ſaw a Conſtable lurking about his Houſe to carry away the Child if he could, as Deponent believes; ſays, the Child continued with Deponent 'till *February*, and then went away without Deponen.'s Knowledge; ſays, he went to one Mr. *Tigh*'s at the *Haymarket*, as he told Deponent ſome Time after; and the Reaſon he gave Deponent for going away was, *That he ſaw ſo many People coming about the Houſe after him, that he was afraid of being taken away by ſome of them.* Being aſked whether he ſhould know the ſame Perſon now if he ſaw him; ſays, that he pitch'd upon Mr. *Anneſley* among ſeveral, the firſt time he came to this Kingdom, without the leaſt Hint being given him; and Deponent pointed to him in open Court, and ſwore, that Mr. *Anneſley* was the ſame Perſon, whom he kept in his Houſe, as aforeſaid.

Croſs Examined.

Being aſked what Time it was that *Farrell* ſhewed him the Boy in *Smithfield*; ſays, in the Year 1726, or 1727, and that Deponent heard Lord *Altham* lived then at *Inchicore*. Being aſked what Time it was Lord *Altham* died; ſays, he died in *November* 1726, or 1727; that the Boy

conti-

continued with Deponent about eleven Months; remembers his coming home to Deponent's Houſe from Lord *Altham*'s Burial; ſays, he ran from Deponent's Houſe to *Chriſt*'s *Church* to ſee it. Being asked whether Deponent did believe him to be Lord *Altham*'s Son when he took him into his Houſe; ſays, he did believe him to be Lord *Altham*'s *real natural Son*, from what *Farrell* told Deponent, who likewiſe mentioned to Deponent, that the Child had been in his Care, but that his Wife thought much of it, and that he was obliged to put him away to keep his Wife in Temper; that Deponent had a School-maſter to teach the Child to write. Being asked if Deponent ever went to *Inchicore* to ſpeak to my Lord about the Boy; ſays, he never did, but that he once determined to have gone there, only that he was adviſed that my Lord was a paſſionate Man, and would not value the ſhooting him thro' the Head, and that it would be of no Service to the Child, becauſe of the Woman my Lord kept in the Houſe; ſays, that the Defendant was called Captain *Anneſley* when he came to Deponent's Houſe, and told Deponent he was Brother to the Child's Father, and ſays, that the Child called him Uncle. Being asked whether he did not know that a Son is to inherit the Title of his Father; ſays, he does; but that not being ſkilled in Law Affairs, he could not tell why the Boy did not ſucceed my Lord *Altham* his Father; but ſays, the Boy went to Mr. *Tigh*'s, a Gentleman more capable of ſuch ſort of Buſineſs than Deponent. Being asked, if he enquired whether Lord *Altham* had any Eſtate; ſays, he did not. Being asked if he told Mr. *Tigh*, that the Boy was Lord *Altham*'s Son; ſays, he did not; that he was indifferent about the Boy, becauſe he went away from Deponent without his Knowledge; does not remember that he apprized any other Perſon of the Family that a Son of my Lord *Altham*'s was in his Care. Being asked if he heard that Captain *Anneſley* (the preſent Defendant) became Lord *Altham* upon the Death of the late Lord; ſays, he did, but that Deponent did not care to interfere in that Matter, *as long as Might had overcome Right*; and as the Boy went away from Deponent without his Knowledge, Deponent did not think it incumbent upon him to meddle in it,

Being asked if the Boy was sharp; says, he was. Being asked whether he heard the Boy say any thing of his Right to any Title or Estate; says, he heard him say, he hoped to be Earl of *Anglesey*. Being asked how he knows the Boy went to Mr. *Tigh*'s; says, he saw him at Mr. *Tigh*'s Door, and in a Livery, which gave Deponent great Concern; says, Mr. *Tigh* was generally called Counsellor *Tigh*. Being asked how he knows it was a Constable that came about his House, and that he lurked for the Boy; says, he look'd like a Constable; that one Day he lifted up the Latch of Deponent's Door, and when he found he was perceived, he ran away. Being asked if he believed that the present Defendant intended the Boy any Mischief, when Deponent went to *Jones*'s; says, he did suspect that the Defendant intended him Harm. Being asked why he did not then apply to some Justice of Peace or other Magistrate for Redress; says, he did not care to go to Law about it, but that he took care to keep the Boy close Within-doors, after the Defendant had made this Attempt. Being asked in what Part of the House Defendant was when Deponent found him at *Jones*'s; says, he was in the Kitchen, and that the Constable stood in the Entry behind Deponent's Back, and two or three without-side of the Door; that the Boy said to Deponent, *Dear Sir, don't let them take me away, that's Uncle Dick, they will destroy me:* Upon which Deponent told him, he would lose his Life before he should be taken from him; says, that some People hearing the Noise, came and asked Deponent if he wanted any Assistance. Deponent being desired to name some of the People who came to his Assistance, he named Mr. *Bignell*, who he said was dead; says, the Constable went away; can't tell who the Constable or the other Ruffians were, never having seen them before; says, the Boy remained with Deponent about two Months after that; and as Deponent thought all things over, he made himself easy without going to a Magistrate, thinking himself able to protect the Child. Being asked if the Child said he was Lord *Altham*'s Son; says, he did; says, *Dominick Farrell* told Deponent that he had seen the Child at *Dunhain* in my Lord's House, and that his Mother was a Relation of the Duke of *Buckingham*. Being asked what sort of a Son *Farrell* told him

him the Child was; says, that he told Deponent the Child was Lord *Altham's real natural* Son. Being asked if he was positive, *Farrell* told him he was Lord *Altham's real natural Son*; says, he is positive he did. [Hereupon Mr. *Hamilton*, one of the Jury, asked Deponent, what Deponent meant by a *real natural Son*?] Deponent answered, *I mean a Son got by Lord* Altham's *Wife*. Being asked by the Defendant's Counsel, whether the present Defendant, when he came to Deponent's House, did not say the Child was Lord *Altham's natural* Son, as *Farrell* said he was; says, he does not remember that his Uncle call'd him *natural* Son, but said that he was his Brother's Son, and that Lord *Altham* was his Father. Being asked, if he knows Mr. *Charlton* the Attorney, or Mr. *Stone*; says, he does know them. Being asked if ever he told them, or any Body else, that he saw the Boy a Ship-board; says, he did not, to the best of his Knowledge, but that his Son might tell them so. Being asked what the Boy called Deponent's Wife; says, sometimes he called her *Mammy*,, sometimes *Mistress*; says, he kept the Boy, in hopes that when he came of Age, he might prove himself to be Lord *Altham's* Son, and recover his Birthright; that the Boy never did any thing for Deponent, but sometimes ran of Errands; says, he has heard the Boy went on Ship-board. Being asked if *Jones* was an honest Man; says, he was, but heard he went crazy about the Streets, telling every body he was ruin'd by Lord *Altham*, the present Defendant; says, he gave the Boy no ill Usage that might induce him to go away, but that he having, during the Time he was with Deponent, staid out all Night (which was about three or four Times in all) Deponent corrected him for it some of the Times.

Thus ended the third Day's Examination of Plaintiff's Witnesses, about 8 *o'Clock on* Monday *Night the* 14*th of* November; *and the Court, by like Consent, as before, which was signed by the Parties and their Attornies, and read in open Court, adjourned to the next Morning at* 9 *of the Clock.*

The

The Fourth Day of the TRIAL.

Tuesday, November 15, 1743.

THE Court met according to Adjournment, and the Jury being called over, as before, answered to their Names, and then the Plaintiff's Counsel proceeded to examine their Witnesses, as follows:

Forty-first Witness. *Shellcross Ash*, Gent. one of the Attorneys of the Court of *Common-Pleas*; says, he was acquainted with the late Lord *Altham*, and that shortly after his Death Deponent happened to be in Company with his Brother, the present Earl of *Anglesey* (the now Defendant) when a Gentleman in the Company having mentioned that there was a Boy at Lord *Altham*'s Burial who made a great Noise, and cried, and call'd himself Lord *Altham*'s Son; the Defendant made answer, and swore he was an Impostor and a Vagabond, or Words to that Effect, and ought to be transported. Being desired to tell the Court how he came to be in Defendant's Company, and what was the Occasion of this Conversation; says, that soon after the late Lord *Altham*'s Death Deponent was in Company with the present Earl of *Anglesey*, then Lord *Altham*, (Deponent being concerned in his Affairs) and that either one *Cavenagh* (a Dancing master) or one *Wilkinson*, Persons who used to attend his Lordship) having been sent by him to Mr. *Hawkins*, King at Arms, to desire him to enroll my Lord as Baron of *Altham*, in the Place of his Brother the late Lord *Altham*, came back, and gave his Lordship an Account in Presence of this Deponent; that Mr. *Hawkins* said he could not enrol him, for that there was some Reason to think, that the late Lord *Altham* had left a Son, for that a Boy has made a great Noise at his Funeral in *Christ Church*, crying and telling every body aloud, that he was the Son of the late Lord *Altham*. My Lord was angry at hearing what

what Mr. *Hawkins* ſaid; and declared, that the Boy was a Vagabond and Impoſtor. I ſaid, that if he was a Vagabond, there was a Method to get rid of him, which was to get him indentur'd at the *Tholſel* and tranſported —Deponent believes my Lord ſaid, the Boy was a Baſtard, tho' he gave no other Reaſon to induce Deponent or the reſt of the Company to believe him ſuch, than his Lordſhip's ſpeaking in an angry Manner.—That Deponent thereupon ſaid to my Lord, that Mr. *Hawkins*'s refuſing to enroll his Lordſhip might not perhaps be on the Boy's Account, but becauſe he wanted his Honorary Fees; whereupon my Lord ſaid, that if that was all, he would ſatisfy him: And Deponent ſays, his Lordſhip ſoon after took his Seat. Being aſked, if he did not afterwards hear the Defendant ſay, the Boy was tranſported; ſays, he never heard my Lord ſay the Boy was tranſported, but that ſome Time after the Boy was gone, upon ſome of the Company's talking of him, the Defendant ſaid, *he was gone*; and that he ſaid it in an eaſy Manner, without any Heat.

Croſs Examined.

Being aſk'd, when he firſt heard of the Boy; ſays, he never heard of him 'till after the Death of the late Lord *Altham*. And Deponent has dined with the late Lord *Altham*, and never heard him ſay he had a Son.—Nor did Deponent ever hear him ſay who was to inherit his Eſtate.—Says, he never heard any Perſon reputed to be his Heir but the Defendant.——Says, the late Lord *Altham* died inteſtate; and that the Defendant took out Adminiſtration to him. Being aſked, where it was my Lord ſaid, that the Boy was gone; ſays, it was moſt likely in a Tavern, amongſt his uſual Acquaintance. Being aſk'd, if he conſulted Deponent about the Boy's Tranſportation; ſays, he did not.

Forty-ſecond Witneſs. *Mark Byrn*, ſays, he has known the Defendant a long Time, but can't tell directly how long. Being deſired to give an Account to the Court and Jury if he was at any Time employ'd by any and what Perſon to tranſport any, and what Boy; ſays, that about ſixteen Years ago, one *Donnelly*, a Conſtable, met Deponent (who was at that Time likewiſe a Conſtable) and told Deponent he had a good Jobb for him, which he

he was to get a Guinea for; and Deponent should have a Share of it: And *Donnelly* desired Deponent to go along with him.—That Deponent accordingly went along with him to one *Jones*'s House in *Ormond-Market*, and the present Earl of *Anglesey* was there (who was then call'd Lord *Altham*) and there was a small Boy there, which my Lord said was his Brother's Son.——My Lord charged the Boy with stealing a Silver Spoon, and that he was a Thief, and desir'd Deponent, and the said *Donnelly* and others, who were there with my Lord, to take him away to *George*'s *Quay*.——That accordingly they took the Boy away, and carried him towards *Essex-Bridge*; and there a Coach was got, into which the said *Donnelly*, the Boy, and Deponent went; and the Coach was order'd to drive down to *George*'s *Quay*; says, my Lord was there as soon as the Coach; but Deponent does not know, whether my Lord walk'd, or went in a Coach or Chair.——Says, there was a Boat waiting at the *Slip* at *George*'s *Quay*, and the Boy was put into it by *Donnelly*, and Lord *Anglesey* went into the Boat down the River, and Deponent returned Home.——That next Day *Donnelly* came to Deponent and gave him a Shilling; whereupon Deponent demanded Half-a-Guinea, as the Part which *Donnelly* had promis'd him; but never got it. There was a Mob follow'd them when they carried the Child away.——That the Boy cried very much, which he believes occasion'd the Mob.——Says, the Boy told them, he was afraid his Uncle was going to kill or transport him. Being ask'd, whether there was any Thing done to prevent the Transportation; says, he saw nothing done to prevent it. Being ask'd, if the Boy mentioned the Lord *Altham* (the now Defendant) as his Uncle; says, he did. Being asked, when it was he first saw the Boy since this Time; says, he never saw him since that Day till lately. Being ask'd, if he and *Donnally* had any Staves as Constables; says, they had not: but that they were publickly known to be Constables. Being ask'd, if they had any Warrant; says, they had no Warrant as he saw.

Cross-Examined.

Being ask'd, if my Lord was at *Jones*'s House before Deponent came; says, he was. Being ask'd, what Time of the Day it was; says, he does not know whether

ther it was Morning or Afternoon, but that it was Day-light. Being asked what Time of the Year it was; says, he believes it was in the *Spring*. Being asked in what Part of the House he saw the Boy; says, in the Kitchen; says, he is positive that my Lord *Altham*, (who is now the Defendant) is the Person that was there with him; says, they did not stay long in *Jones*'s House, but were ordered directly to take the Boy away, says, the Door was open and free for every one to go in and out. —That my Lord said, the Boy was his Brother's Son, and had stolen a silver Spoon.——That the Boy cried, and said, *I fear he will kill me or transport me.* Being asked, if Deponent knew what was going to be done to the Boy; says, he did not at that Time, but apprehended nothing right was going to be done. — That it was not said in the Coach what was to be done. — And when the Boy was got into the Boat Deponent was surprized, and began to believe that something out of the Way was intended, and that they were going to send him over Sea. Being asked whether he enquired for any Warrant for what he did; says, he did not. Being asked, if he did not believe it unlawful to transport the Boy without a legal Order, or without Trial; says, he did believe so, though he did not acquaint any of his Companions that he thought so. Being asked what Clothes the Boy had on; says, he can't tell. Being asked if *Donnelly* is living, or dead; says, he is dead. Being asked how long he had been a Constable at that Time; says, he believes something more than two Years. Being asked who were Lord Mayor or Sheriffs that Year; says, he don't know; but was sworn in Constable before the Lord Mayor. Being asked if *Donnelly* told him what the Job was when he first spoke to him about it; says, he did not; but believes he received his Instructions what to do before he met the Boy. Being asked if he ever saw my Lord *Altham* (the present Defendant) before that Time; says, he had seen him several Times. Being asked what my Lord said at that Time; says, my Lord bid Deponent take away the Boy: And that Deponent took him accordingly.—Says, they walked till they came to *Essex-Bridge*, where they met a Coach. —— Says, he was afraid to go into it. — That the Mob followed them all

the Way to *George's Quay* —— That it was *Donnelly* who directed the Coach to drive there—Says, Deponent assisted in putting the Boy into the Boat, and went along with him down the Steps. — Says, *Donnelly* and one *James Reilly*, who (he thinks) wore a Livery, held the Boy. Being asked if *Reilly* was in Black, says, he was not —— That Deponent did not see him 'till they came to *George's Quay*. — That Deponent staid 'till they went off, and saw them row the Boat beyond the Walls. Being asked if *John Purcell* was at *Jones's* that Day; says, he did not see him there, — Says, he did not see my Lord from the Time he was at *Jones's* 'till he saw him at the *Quay*. Being asked what Cloaths my Lord had on; says, he can't tell. Being asked if *Reilly* went into the Boat; says, he did. Being asked for what Reason they took Coach; says, to keep the Boy from the Crowd. Being asked how long Deponent was on the *Quay* before the Boy went off; says about a Quarter of an Hour. Being asked how he came to give Evidence in this Cause; says, he was sent for by Mr. *Annesley*, the Lessor of the Plaintiff, when he came to *Dublin*, to whom he gave the above Account. —— Says, the Boy went crying all the Way. —— That there was a great many People on the *Quay*, but no Body endeavoured to take the Boy from them. —— Says, that *Donnelly* and the Boy went down the Steps; and that the Boy was so tired with crying that he was hardly able to speak. Says, that several People enquired what was the Matter at the *Quay*, but Deponent would not tell them.

Forty-third Witness. *James Reilly* says he lives now in *London*, and has a House of his own. —— That he knows the Defendant, the Earl of *Anglesey*, and lived with him as a Servant for about eleven Months, about fifteen or sixteen Years ago. — That he knew the late Lord *Altham*, who had been dead about three Months when Deponent came into the Defendant's Service. —— That before Deponent came into his Service, he lived with Surgeon *Green* on *Arran's Quay*: And remembers he left his Service on *New-Year's Day*, and after that went to live with Lord *Altham* (for he was then called so, who is now Earl of *Anglesey*.) Being desired to give an Account if he was at any Time, and when, employed

by

by any Person, and whom, about transporting any, and what Boy; says, that about a Month after he came to live with my Lord, he was (with some Constables, whose Names were *Bryan Donnelly*, *John Donnelly*, *Mark Byrn*, and *Patrick Reilly*) employ'd by my Lord to look for one *James Annesley*. —— That my Lord desired Deponent if he met the Boy, to carry him to an Alehouse and send for his Lordship as soon as possible. —— That Deponent and the rest went several Times in search of the Boy; but that *Mark Byrn* was but once along with them. —— That they searched about *Smithfield*, *New-Market*, and down *Ormond Quay*. —— Says, that one Day as Deponent came to Town from *Inchicore*, he received a Message to wait upon my Lord at one *Darrency*'s in *Castle-street* (who was married to one *Kennelly*'s Daughter.) — That Deponent accordingly went there, and found that my Lord was gone away: But presently a Porter came there to Deponent from *George's Quay*, to inform him that my Lord wanted him there, and Deponent went along with the Porter to *George's Quay*, where my Lord was. —— That when Deponent came there, my Lord whisper'd him to go and borrow a Guinea for him. —— That Deponent accordingly went to Mrs. *Kelly's*, at the *Butcher's-Arms*, near *Inchicore*, and got the Guinea and returned to my Lord at *George's Quay*, and gave him the Guinea; and Deponent saw my Lord give the Guinea into *John Donnelly*'s Hands, and then *John Donnelly* went away. —— Says, there was a Boat at the *Slip*, and *Bryan Donnelly* and *Mark Byrn* brought the Boy, who was immediately put into the Boat, and my Lord, *Bryan Donnelly*, *John Donnelly*, the Boy, and Deponent went into the Boat, and they rowed to a Ship that lay down the River as far as *Rings End* *. —— That when they came to *Rings End*, the Boy was put on board the Ship, which was to sail to one of his Majesty's Plantations, as he has been informed. *(On Deponent mentioning his Information, the Counsel for the Defendant told him, he must talk from his own Knowledge, and not from Information, which was confirmed by the Court.)* —— That my

* *Rings End*, about a Mile from *Dublin*, where Ships are station'd that sail outwards.

Lord went on board the Ship with the Boy, and no body elſe, and the Boy cried bitterly; and my Lord ſtaid on board a few Minutes, and then returned to the Boat, and they rowed back to *George*'s *Quay*.——Says, he does not know to whom that Ship belong'd. Being asked, when it was he firſt ſaw the Boy at *George*'s *Quay*; ſays, he did not ſee him till Deponent returned to my Lord with the Guinea. Being asked, if he was acquainted with the Boy; ſays, he was, ever ſince he was about ſix Years old; that he knew him at Lord *Altham*'s Houſe in *Stephen*'s *Green*, and in *Proper-lane*; and believes him to be my Lord and Lady's Child.—— Says, he heard my Lord *Altham* (the preſent Defendant) ſay, one Day when he was affronted for taking away the Child's Birth-right, that he would take a Courſe with him.——Says, Deponent uſed to hear People curſe my Lord ſeveral Times on the Boy's Account, both before and after the Boy was gone.

Croſs Examin'd.

Being asked how long it is ſince Deponent came over here; ſays, laſt *Sunday* was three Weeks. Being asked if he is a Servant now to any Body; ſays, he has not been a Servant theſe four Years, and he lives in *King's-ſtreet*, St. *James*'s, *Weſtminſter*, and ſells Cambricks and Hollands. Deponent was asked, if he knew the Right Honourable the Lord *Barrymore*, and whether he was not his Servant; ſays, he knows his Lordſhip, but is not at this Time his Servant, tho' he is in hopes to be his Lordſhip's Houſe-Steward at his Return to *London*, being very well recommended to him, and that upon Deponent's coming here to give Evidence, his Lordſhip had given him a Protection. Being asked what Time of the Day it was when he got to *George*'s *Quay*; ſays, in the Afternoon; that it was in the Spring of the Year, and that it was duskiſh at their Return; ſays, the Ship lay down below the *Walls* in *Ring's End*. Being asked how long it was before they return'd from the Ship to *George*'s *Quay*; ſays, he believes it was an Hour and a Quarter going to the Ship and coming from it. Being asked again who went into the Boat; ſays, my Lord went firſt into the Boat, and that *Jack Donnelly*, and *Bryan Donnelly*, and the Boy, and two others, whoſe

whoſe Names he does not know, went in afterwards, and that Deponent was the laſt that went in. Being asked if he knew *Mark Byrn* before that Time; ſays, he was acquainted with him ſometime before. Being asked where my Lord liv'd when Deponent was in his Service; ſays, at *Inchicore*; that Deponent wore his Livery; ſays, he was not long out of Mr. *Green*'s Service before he went to live with my Lord. Being asked if he has ſeen *Mark Byrn* lately; ſays, he met him laſt *Saturday* and laſt *Monday* in the *Backhouſe*, where the Witneſſes for Mr. *Anneſley* (the Leſſor of the Plaintiff) are entertained, but does not remember to have had any Diſcourſe with him about Mr. *Anneſley*. Being asked if he ſaw him at *George*'s *Quay*; ſays, he did. Being asked if *Byrn* went along with them to the Ship; ſays, he did not; that he came no farther than the *Slip*; ſays, my Lord was at a Beer-houſe near the *Slip*, when Deponent came to him. Being asked where the Houſe is which he calls the *Butchers Arms*; ſays, near *Inchicore*. Being asked whether he went to and from the *Butchers Arms* on Foot or on Horſeback; ſays, he walked thither and back again ſo the *Quay*. Being asked whether *Inchicore* or the *Butchers Arms* is nearer *Dublin*; ſays, that *Inchicore* is nearer. Being asked if he could recollect what Time of the Day it was he left the *Quay* and went to the *Butchers Arms*; ſays, about Two o'Clock; and how long it was before he return'd; ſays, about 3 o'Clock; and that in about three or four Minutes after *Donnelly* got the Guinea, the Boy was brought and put into the Boat; ſays, *John Donnelly* went out of the Houſe firſt, and was followed by my Lord down to the *Slip*. Being asked for what Wages he hir'd with my Lord; ſays, for four Pounds a Year. Being asked if he knew the Boy was to be tranſported; ſays, he did, becauſe he heard it talk'd of ſeveral Times before 'twas done; and Deponent knew that the Guinea he was ſent to borrow was for the Conſtables. Being asked if he thought it a lawful Thing to tranſport a Boy in this Manner without any proper Authority; ſays, he knew it was not a lawful Thing to tranſport the Boy, but that he thought himſelf obliged to do what his Maſter order'd him, tho'

an

an unlawful Act; says, that when my Lord sent Deponent to borrow the Guinea, he ordered him to go to the *Hog in Armour* in *James street*, which Deponent did, but not being able to get it there, Deponent went to the *Butchers Arms*; that when my Lord sent Deponent in search of the Boy, he directed Deponent not to take him in *Ormond-Market*, for Fear *Purcell* the Butcher should alarm the Market-Boys, and rescue Mr. *Annesley* from him, but to go in Search of him to *Smithfield*, *College Green*, and on a *Sunday* to the *Long Meadows*; says, that my Lord had a Lodging in *Dublin* in *Fishamble-street*; that Deponent lived at *Inchicore*, where he worked in the Garden until my Lord gave him Cloaths; that Deponent got a Livery that had been wore by another Servant who lived with my Lord before, and says it was of a bluish Colour; says, the Gardener's Name was *Robinson*; and my Lord had besides Deponent a little Boy that once liv'd at a Coffee-house. Being asked whether Deponent wore any black Cloaths whilst he was with my Lord; says, he did not. Being asked how my Lord dress'd the Day he was at the *Quay*, whether in a full Dress or Undress; says, he believes he was not in a full Dress, but as he used to dress every Day about the House; says, the late Lord *Altham* died some Time before Deponent left Mr. *Green*'s Service; says, the Boy, the Day he was carried on board, had on that Livery Deponent saw him wear whilst he lived with Mr. *Tigh*; says, he never heard where the Boy was found; says, Deponent lived about twelve Years in *Ireland* after the Boy was transported; says, my Lord turned Deponent out of his House about Two o'Clock in the Morning; that my Lord coming Home one Night to *Inchicore* from *Dublin*, Deponent had wrapp'd himself up in an old Blanket, and seated himself in a Chair close on the Inside of the Gate, that he might wake the easier when my Lord came home, and so not make his Lordship wait; that my Lord having Words with the Coachman who drove him Home, about his Fare, Deponent opened the Gate, to hinder him from running the Coachman through the Body, as he threatned; that my Lord coming in, and seeing the Chair and Blanket at the Door, charged the Deponent

ment with an Intent to rob him; to which Deponent replied, That if he had any ſuch Intent, he ſhould hardly have thought of carrying away an old Blanket and a Chair not worth a Groat; that thereupon his Lordſhip flew into a great Rage, ſtripp'd Deponent of his Coat, Waiſtcoat and Breeches, and in that Condition turn'd him out of Doors, tho' it was a mizzly Night, threatning with many Oaths and Curſes, to ſend Deponent to *Kilmainham* Goal, if he did not get away from the Door that Inſtant; that Deponent having got ſome Cloaths at *Dublin*, went the next Day to my Lady, and told her his Caſe, and deſired her to intercede with my Lord for his Wages, and three Guineas he had laid out for my Lord; ſays, that my Lady promiſed to intercede for him, and gave Deponent 7*s*. to buy him Shoes and Stockings; that my Lord hearing of this, iſſued out his own Warrant and got Deponent taken up by a Conſtable at *Palmerſton* for the 7*s*. under Pretence that Deponent had defrauded my Lady of the Money under falſe Colours; ſays, that rather than lie in Goal, Deponent paid the 7*s*. and thereupon Deponent was diſcharged. Says, he never was paid his Wages by my Lord; and that he was ſo afraid of his Lordſhip, that one Day when Deponent lived as a Servant with Lord *Mountjoy*, ſeeing my Lord come in there, Deponent hid himſelf for Fear of him.

Council for the Plaintiff. My Lords we have now proved Mr. *Anneſley* to be put on Board a Ship, we will now ſhew your Lordſhips, and the Gentlemen of the Jury from the Cuſtom-houſe Book of the Port of *Dublin*, what Ship was then bound for Foreign Parts into *America*, and then we'll ſhew the actual Entry of Mr. *Anneſley*'s Name in the Owner of that Ship's Books, and that the Ship ſailed, and Mr. *Anneſley* tranſported abroad as a Servant, and then we hope it will be incumbent on the Defendant, the Earl of *Angleſey*, to ſhew by what Power or Authority he ſent Mr. *Anneſley* abroad, and if he does not, we hope it will be an Inducement to the Jury to believe, that Mr. *Anneſley* the Leſſor of the Plaintiff in this Cauſe was a great Thorn to the Defendant, and to put Mr. *Anneſley* out of the Way, was all he had to do, to enjoy the Honours and Eſtate of this noble Family, and to which, we hope we have proved

Mr.

Mr. *Anneſley* the now Plaintiff to be the lawful Son and rightful Heir of *Arthur* Lord *Altham* deceas'd.

Council for the Defendant. You have not prov'd one Word of that yet.

Court. Proceed, and call your Witneſſes.

Forty-fourth Witneſs. *George Babe*, Eſq; Clerk of the Ship-Entries at the Cuſtom-houſe, *Dublin*, who being ſworn and examined, ſaid, he is an Officer of the Cuſtom-houſe, and Clerk of the Ship-Entries of the Port in *Dublin*, and ſaid, the Book he then produced in Court was the Book of Ship-Entries in the Year 1728.

Said, that he finds an Entry made therein of the 18th of *April* 1728, that a Ship called the *James* of *Dublin*, Burthen 100 Ton, *Thomas Hendry*, Maſter, entred outwards for *Virol* and *Philadelphia*, and Owners of the Goods were *James Stephenſon*, *William Clancy*, and *Benjamin Glegg*;——that the Entry is all of the Witneſs's Hand-Writing, but ſigned by the Maſter, *Thomas Hendry*, ſaid, they do not enter where the Ship lies, and that *James Stephenſon* is dead.

Croſs Examined.

Said, that the Maſter of the Ship ſwears when he goes outwards to the Place to which he intends to ſail.

——Said, *William Clancy* is alive, but did not know where he is, and did not know *Benjamin Glegg*;——ſaid, he does not enter when the Ship is to ſail, but they muſt enter the Ship before they can go out.

Council for the Plaintiff.——It now appears that *James Stephenſon*, one of the Owners, is dead, we will produce his Books, and ſhew that Mr. *James Anneſley* was ſent abroad on board that Ship the Time we have proved, that he was taken away by Force.

Forty-fifth Witneſs. *Andrew Cromey*, Merchant, who being ſworn and examined; ſaid, he knew *James Stephenſon*, Merchant, and that he is dead; the Witneſs produced a Book, which he ſwore he found amongſt the Books of Entries and Accounts of the ſaid *Stephenſon*, that the Witneſs is married to the Daughter of *Stephenſon*, and was his Clerk for thirteen Years, that he went to live with *Stephenſon* in *June* 1720, and left him in *June* 1733, and was his Clerk in the Year 1728, ſaid, that

that *Stephenſon* had ſeveral Writing Clerks during the Time the Witneſs was with him; ſaid, that *Stephenſon* traded to the *Weſt-Indies* with Servants amongſt other Goods; ſaid, the Nature of taking in Servants were, that the Owner of the Ship, advertiſed his Sailing to ſuch a Place, and that they would take in Servants, and alſo let them know where the Maſter of the Ship was to be found; that the Perſons that would go as Servants were brought before the Lord Mayor to indent before the Ship ſailed, and Perſons under Age that wou'd go as Servants did the ſame, that on the Day of Sailing the Name of every Perſon whether Servant or Paſſenger was taken down, along with the Ship's Crew; ſaid, he found an Entry made in the Book by one *Skelleron* who was *Stephenſon*'s Clerk; that *Skelleron* is dead, and he was very well acquainted with his Hand-writing.

Council for the Defendant. We will admit the Book to be read.

Council for the Plaintiff. Mr. *Cromey* look in the Book and ſee if you find any Entry therein when the Ship *James* of *Dublin* ſailed and who were aboard.

Mr. *Cromey* reads,

30*th* of *April* 1728.

An Account of the ſeveral Servants aboard the Ship *James* that went over the Barr the 30*th* of *April* 1728.—

Reads *James Anneſley.*———

The fourth Perſon's Name ſet down there as a Servant———

Council for the Plaintiff.——Mr. *Cromey* it ſeems you are acquainted with the Nature and Manner of the trading with Servants that go aboard, give an Account to the Court and the Jury, what you know of that Matter.

Witneſs ſaid, there is firſt a Liſt made by the Maſter of the Ship the Night before the Ship is to ſet Sail, and delivered to the Merchants Clerk, who goes aboard the Ship, and the Perſons aboard are called to the fore Part of the Ship, then the Maſter or Mate of the Ship calls the ſeveral Perſons by their Names, and as the Perſon paſſes by, the Clerk aſks the Perſons their Names, and then he writes their Names down as they anſwer, which

Lift is entered in the Owner's Books as a Charge on the Maſter, and further ſaid, that ſeveral Perſons Names are returned in the Liſt by the Maſter that do not go, and to be more certain and particular of the Servants and Paſſengers aboard when the Ship is to ſet Sail, the Clerk is ſent aboard, to take their Names, to prevent any Diſpute after, between the Owner and the Maſter.

Croſs Examined.

He ſaid, that the Ship *James* lay at *Eſſex*-bridge before ſhe ſailed,———ſaid, the Servants go to be examined before the Lord Mayor, and when Perſons were under Age the Lord Mayor examines them, who their Parents are; ſaid, he never knew any to be taken away by Force; ſaid, that Mr. *Gunn*, the Town-Clerk, or his Clerk, makes an Entry into the *Tholſel* Book of the ſeveral Perſons that are to go as Servants, that the Merchant cloaths ſuch of the Perſons that go as Servants, if they have no Cloaths, but if they have Cloaths they do not; ſaid, that they that go to be bound as Apprentices to ſerve aboard, the Merchant indents for them at the *Tholſel*, but them that go as Servants they do not;——ſaid, they that go Paſſengers are taken down as Paſſengers, tho' ſome may be aboard as a Paſſenger, yet ſet down as a Servant.

And being aſked by the Plaintiff's Council, whether Perſons may not be aboard without the Merchant, Owner, or Clerk's Knowledge,——ſaid, they might, as taking the Entry for the Maſter.

Lord Chief Baron. If this Boy was carried before the Mayor, you can find an Entry in the Town-Book.

And the Witneſs being further examined,—ſaid, the Clerk takes down the Indenture of the Perſons indented, and gives the ſame to the Maſter of the Ship before he ſails, and ſaid the Clerk does not always call the Perſons Names from the Indenture when on board, but he has known them to be called both with and without the Indenture——ſaid, that when the Perſon anſwers to his Name, and ſays he or ſhe go as Servants, they do not call for the Indenture——ſaid, he could not tell if a Perſon would complain but he would be taken away; yet his Name would be returned by the Clerk to his Maſter,———ſaid, that although a Man ſhould ſay he would

would not go, and the Clerk ſhould call for the Indenture and not find it, the Clerk would take down the Perſon's Name, and would not ſtop the Ship from Sailing, ——and wou'd enter all Perſons aboard as Servants, and in the Liſt of Servants.

Council for the Defendant——My Lords, all Perſons that went aboard were not indented or enrolled at the *Tholſel*, for Mr. *Hawkins* a Juſtice of the Peace for the County of *Dublin* took upon himſelf to have a Right to indent Servants going abroad from the County of *Dublin*.

And we will examine the Witneſs to that Point, and being aſked that Queſtion.

Witneſs ſaid, that Mr. *Hawkins*, Juſtice of the Peace for the County of *Dublin*, uſed to indent ſome Servants.

Council for the Plaintiff.——Do you find that there ever was a Return made to the Owners of that Ship by that Maſter on Account of this Voyage.

Witneſs ſaid, that Mr. *Stephenſon* loſt by the Maſter of that Ship 4000*l*. and when he had got the Owner's Effects into his Hands, he never returned——nor does he find any Return made by the Maſter of that Voyage ——and that the Maſter returns an Account to his Merchant of the Sale of the Servants, and that the Maſter of the Ship might have Perſons aboard that he would not diſcover.

Forty-ſixth Witneſs. *Henry Gunn*, Town-Clerk of *Dublin*, who being ſworn and examined;——ſaid, he is Town Clerk of the City of *Dublin*, and that the Book which he now produces is a Book kept in the *Tholſel* Office of the City of *Dublin*, of the ſeveral Perſons indented before the Lord-Mayor that goes abroad as Servants, and ſaid the Book begins the 1ſt of *May* 1699——Read ſeveral Perſons Names indented in the Year 1727.

Twenty-fifth of *March* 1728, read ſeveral Names of Perſons bound that Day.

Twenty-ſixth of *March* 1728, read ſeveral Perſons Names indented that Day.

And read the Name of *James Henneſley*, as one of the Perſons indented that Day. There being one hundred and ſeventeen Men and Women indented that Day.

Council for the Defendant. That *James Henneſley* is the Plaintiff, tho' the Sirname is ſpelt with an *H* inſtead of an *A.*

Mr. *Cromey* examined again;—ſaid, he does not remember any particular Perſon, as their Names are now read.

Lord Chief Baron. From the Evidence that is given of the Boy's being put on board the Ship, in the Manner that this Boy was, the Perſon who put him aboard, muſt give an Account of what became of him.

Mr. *Gunn* ſwears that the Entry of the Name *James Henneſley* in the Lord Mayor's Book, is wrote by his Father, who was Town-Clerk then.

Mr. *B. Dawſon.* There are eighty Men entred in the Merchant's Book, and one hundred in the Lord Mayor's.

Mr. *Gunn.* What Entry do you find made on *James Henneſley?*

Reads, *James Henneſley* bound for ſeven Years.

Council for the Defendant. Mr. *Gunn*, give an Account of the Method uſed in the *Tholſel* for indenting Servants going abroad, and whether they are examined by the Lord Mayor before the Indenture is filled up?

Witneſs ſaid, the Merchant or Maſter of the Ship always brings the Names of the Perſons to be indented in a Liſt, and leaves them with the Town-Clerk, and the Indenture is filled up at the *Tholſel* Office.

Mr. *Cromey* further examined;—ſaid, the Maſter does not read the Names that the Clerk takes down aboard the Ship.

Council for the Plaintiff. My Lords, we will now produce Counſellor *Tighe*, to ſhew in what Manner Mr. *Anneſley* was taken out of his Service.

Forty-ſeventh Witneſs. *Richard Tighe*, Eſq; who being ſworn and examined, ſaid;—— that *James Anneſley* came to him in a poor Condition, from one *Purcell*'s a Butcher, and lived with the Deponent as a Servant for ſome Months;—ſaid, it was ſome time after *Chriſtmas* in the Year 1727, that the ſaid *Anneſley* came to live with him, but that the Deponent's Son brought the ſaid *Anneſley* privately into his Houſe before the Deponent knew of it;—ſaid, Lord *Altham* was reported to be the ſaid *James Anneſley*'s Father, but that the Boy

appeared

appeared to him to be about thirteen or fourteen Years of Age, to the beſt of the Deponent's Knowledge, and that the Boy lived with the Deponent to the Time he was tranſported, and that the Boy was taken from him by Stealth.

Said, that his Son put a former Livery that he had for a Boy on Mr. *Anneſley*, which fitted him;——ſaid, that he never ſpoke to the Earl of *Angleſey* in his Life; and that the Deponent did not know after what Manner the Boy withdrew himſelf from the Deponent's Service, the Deponent having given the Boy no Occaſion for quitting his Houſe;——ſaid, the Boy was reputed the legitimate Son of Lord *Altham*, and came to live with the Deponent after the Death of the ſaid Lord, who died in *November* 1727;——ſaid, the Boy ſtaid ſo ſhort a Time with the Deponent, that he did not take ſuch Notice of him or of his Affairs, but that if he had ſtaid with the Deponent, he believed he ſhould have taken proper Care of him. Swore, that the Plaintiff, *James Anneſley*, is the very ſame Perſon, and the ſame *James Anneſley* that lived with the Deponent, and who was now in Court, that was taken away from his Service, and that he heard nothing of him for fourteen Years, until he had a Letter from the Governor of *Virol*, giving the Deponent an Account that Admiral *Vernon* had taken Mr. *Anneſley* into his Care; that Mr. *Reily*, an Agent for the Earl of *Angleſey*, came to the Deponent for the Letter, that the Deponent gave it to *Reily*, and *Reily* never returned it to the Deponent ſince.

Said, the next Day a Perſon, as a Clerk to Mr. *Coultherſt*, then Attorney for the Earl of *Angleſey* the Defendant, came to the Deponent with an Affidavit ready drawn, for the Deponent to ſwear that *James Anneſley*, that lived with the Deponent, was a Baſtard Son of the late Lord *Altham*'s.

And the Plaintiff's Council having asked Mr. *Tighe* after what Manner Mr. *Reily*, the Defendant's Agent, came to him for the Letter, the Deponent ſaid, that Mr. *Reily* came to the Deponent's Houſe, and having ſeen the Deponent, *Reily* ſaid, that he came with a Service from the Earl of *Angleſey*, for the Letter the Deponent had received from *Jamaica*, directed to the Deponent, and

and at the same time asked the Deponent if that Letter did not relate to Mr. *Annesley?* The Deponent said it did, and read the same to *Reily*, then *Reily* desired the Deponent to give it to him to shew the Earl of *Anglesey*, with a Promise of returning the same back, that on the said Promise he gave *Reily* the Letter, and never saw it since.

And being asked after what Manner *James Annesley* went from him, the Deponent said he went from him suddenly.

Cross Examined.

Said, he knew nothing of Mr. *Annesley* whilst he was at *Purcell*'s, but said it was generally reported, and by every body, that the Boy was Lord *Altham*'s Son;—— said, that when *James Annesley* came to live with him, he was in a poor mean Way, and just come out of the Small-Pox, which appeared to him to be so from the Redness in his Face.

And the Deponent being asked by the Defendant's Council, what he conjectured of the Boy's going away? The Deponent said he believed that the Boy was spirited away, and never changed his Opinion of that Matter to this Day, and believes the same still.

Said, that *Peter Murphy*, a Boy that lived with the Deponent after, told the Deponent that he went and saw the Boy in the Ship, and that the Boy cried, and said his Uncle had stole him away.

And being further asked by the Defendant's Council, as the Deponent was bred to the Profession of the Law, why he did not stir and speak of that Matter, as knowing the same to be an unlawful Act, or to apply to the Lord Chief Justice for his Warrant to get the Boy back?

To which the Deponent answered; that he should have spoke of it, but was informed the Ship was gone, and that he should have been put to great Trouble and Expence, and did not know that he ever should see the Boy again, being gone to the *West Indies*.

And being further asked, why he did not inform *Arthur* Earl of *Anglesey* of it?

The Deponent said, he was an entire Stranger to *Arthur* Earl of *Anglesey*, and to *Arthur* late Lord *Altham*,

and

and to their Affairs, and to any Diſputes that were in the Family; —— ſaid, that he never heard from any Perſon, but from *Murphy*, his Servant, that the Boy was gone.

Council for the Plaintiff. My Lords, we will now call a Witneſs, that ſaw the Plaintiff Mr. *Anneſley* in *America*, and what the Plaintiff Mr. *Auneſley* declared whilſt he was there.

Forty-eighth Witneſs. *John Broders*, Sailor, who being ſworn and examined, ſaid, he knew *James Anneſley*; that the Witneſs was at *Penſilvania* in *America* about Fourteen or Fifteen Years ago, and ſaw *James Anneſley* there: That the Witneſs and his Brother had been riding in that Country, they called at a Houſe to warm themſelves; and ſitting at the Fire, a Boy came in with a Gun and a dead Squirrel; that the Witneſs's Brother, who had been in that Country, for ſome time before, and not ſeeing the Boy there before, aſked the Boy what Countryman he was? the Boy ſaid he was an *Iriſh* Man, and came from the County of *Wexford*, and that he was born at *Dunmain* in that County, and that his Name was *Anneſley*; that the Witneſs and his Brother being both of that County; ſaid they knew not any ſuch Family there. On which the Boy ſaid he was Son to the late Lord *Altham*, then the Witneſs and his Brother recollected the Lord *Altham*; that the Boy ſaid he was a Servant to the Man of that Houſe, and the Boy gave them an Account of *Dunmain*. The Witneſs ſaid, he could not particularly ſwear Mr. *Auneſley*, then in Court, to be the ſame Perſon he ſaw in *America* from the Length of Time, but that from what he told the Deponent of the Converſation they had in *America*, he believes him to be the Perſon he ſaw and talked to there; ſaid that he, the Witneſs, when he went to the Ship, told amongſt the Crew that he had ſeen *James Anneſley* in *America*.

This Witneſs was not Croſs Examined.

John Giffard, Gent. called.

The Council for the Defendant inſiſted that before Mr. *Giffard* was ſworn, the Council for the Leſſor of the Plaintiff ſhould open the Nature of the Facts, he is

to

to prove, that it may appear in what Reſpect his Evidence may or may not be proper.

Mr. *Fitz Gibbon*, of Council for the Leſſor of the Plaintiff, ſaid, that Mr. *Giffard* was produced in order to prove that the Leſſor of the Plaintiff, Mr. *Anneſley*, was indicted for Murder in *England*, and that the Relations of the Deceaſed being convinced that the killing was only *accidental*, had intended a very ſlight Proſecution; but that the Defendant, who was no way related to, or acquainted with the Perſon killed, employed a Sollicitor, and carried on a ſevere Proſecution againſt Mr. *Anneſley* at a very great Expence, and declared he would ſpend 10000 *l.* to get him hanged; that this extraordinary Conduct betray'd a Conſciouſneſs in the Defendant of the Leſſor of the Plaintiff's Right and Title to the Eſtate in queſtion, and that for this Purpoſe they offered to produce Mr. *Giffard*, who was the Sollicitor in that very Cauſe, and employ'd by the Defendant.

Mr. Prime Serjeant *Malone*, and the reſt of the Defendant's Council objected to Mr. *Giffard* being examined upon the Points opened by Mr. *Fitz Gibbon*, for that they were foreign to the Point now in Iſſue between the Parties; beſides that the Court could not poſſibly enter into the Merits of the Proſecution, and judge whether it was malicious or not, without Trying the Indictment over again, which would be pretty extraordinary in a Civil Action for the Recovery of Lands; that as the Court could not get at all the Witneſſes that had been examined on that Indictment, they ought not to admit any Evidence to be given about it. It is true, that where a Perſon is a ſecond Time indicted for the ſame Offence, the Law will not oblige him to prove his Innocence again; it is ſufficient to ſhew that he was once tried and acquitted; but that's not the preſent Queſtion——Nothing appears improperly done with reſpect to that Proſecution, becauſe it was proper for any Man to proſecute, as it was an Indictment for Murder, and generally all Proſecutions are carried on by particular Perſons, and not at the Expence of the Crown. The Preſumption therefore is, that the Proſecution in the preſent Caſe was right, and was properly carried on,

and

and the contrary cannot be known without examining the whole Merits of the Accuſation, that is, whether, the killing was accidental (as the Council for the Plaintiff ſay) or not.

In Anſwer to which, the Council for the Leſſor of the Plaintiff ſpoke to the following Effect:

That as the Kidnapping had been allowed to be given in Evidence, ſo ought the manner of the ſubſequent Proſecution, becauſe it proved, that the Malice of the Defendant did not reſt at the Tranſportation; and as the Tranſportation ſhewed the Depone t's Conſciouſneſs of Mr. *Anneſley*'s Right, ſo the Proſecution now offered to be proved is Evidence of the ſame Conſciouſneſs. We admit it would be improper to enter into the Enquiry, whether Mr. *Anneſley* was innocent or guilty in that Affair, and therefore the Plaintiff does not produce Mr. *Giffard* in order to prove that the Proſecution itſelf was criminal or blameable, but to ſhew what uncommon Pains his Lordſhip took to have Mr. *Anneſley* proſecuted.

Lord Chief Baron. It is well known, how tender the Law is of diſcountenancing Proſecutors, and that it is the Duty of every Perſon to bring an Offender to Juſtice; how is it poſſible to know the true Foundation of the Proſecution without enquiring into the Merits of the Crime that was proſecuted? Who can ſay a Man did a lawful Act with an unlawful Intention? Therefore as the Proſecution was a lawful Act, the Law won't ſuffer it to be taken as Evidence of an unlawful Intention, and for that Reaſon I conceive a Difference between admitting that and the Kidnapping as Evidence, in regard that the Kidnapping was an unlawful Act. I apprehend that the Court can't judge whether the Proſecution was frivolous or malicious, unleſs the Indictment was tried over again here, but as it is a Matter worthy of deliberate Conſideration, the Court will reſerve their Opinions till to morrow.

Mr. Baron *Mounteney*. The Plaintiff's Council off r this Proſecution as Evidence of the Defendant's Inten-

tion to take away the Life of the Lessorof the Plaintiff, and think the Lawfulness or Unlawfulness of the Means he used for that Purpose, does not alter the Nature of the Intention; Every Act of the Defendant that may induce a Jury to believe that the Defendant was conscious of Plaintiff's Title is proper Evidence; and I apprehend a Person may be examin'd to prove that he was employ'd by the Defendant in the Prosecution, without our entering into the Merit of the former Trial, whether the killing was accidental or willful, the killing not being the Matter now in Question, but only the Prosecution's being carried on by the Defendant; which is to be consider'd on the same foot with the Kidnapping. It is ask'd, *cui bono* is this Enquiry, when it is admitted on all hands, that the Prosecution was lawful, as every Man may prosecute for the Crown. To this I answer, That although an Act may be lawful, it may be a Question in what respect it is proper, and therefore it ought to be given in Evidence. The compounding a Suit is a lawful Act, yet may be proper to be given in Evidence; and therefore I am of Opinion that the Evidence now offered is proper to be received.

Mr. Baron *Dawson* said, That he agreed with the Lord Chief Baron, that it was proper to take time to consider of this Matter; and in the mean time the Gentlemen on both Sides might look into the Cases to clear it up to the Court.

The farther Argument concerning Mr. *Giffard* being postponed till the next Day, the Council for the Plaintiff then proceeded to call more Witnesses.

Council for the Plaintiff. My Lords, we will now produce a Witness to shew, that no Registry of Christenings was kept in the Parish where the Plaintiff was born.

Forty-ninth Witness. The Reverend *Abel Butler*, Clerk, who being sworn and examined, says, he knows the Parish of *Tentor*, in the County of *Wexford*, and that the Lands of *Dunmain* is in the Parish of *Owenduff*, and united to *Tentor*; that he is Vicar of the said Parishes, and that there is not any Registry of Marriages or Christenings kept in that Parish.

Council

Council for the Plaintiff. My Lords, we will produce another Witneſs to ſhew what *Arthur* late Lord *Altham* ſaid relative to the Plaintiff's being his Son.

Fiftieth Witneſs. *John Barton*, Gentleman, who being ſworn and examined, ſaid, he knew *Arthur* late Lord *Altham*, and converſed with him frequently about the Plaintiff Mr. *Annesley*, —ſaid, that being in Company one Night with his Lordſhip at *Inchicore*, and being very free with his Lordſhip, he asked his Lordſhip if he would be angry if the Witneſs ſhould ask him a Queſtion? His Lordſhip anſwered, he wou'd not. The Witneſs then asked his Lordſhip, if the young Lad that ran about was his Son, his Lordſhip replied, and ſaid, he was his Son by his lawful Wife, but could do Nothing for him, by Reaſon of a Woman he kept.

Said that Lord *Altham* was a needy Man, and kept a Pack of Hounds, and one Hound would eat another for want of Food; that the Witneſs was a near Neighbour to his Lordſhip, and ſaid, that Queſtion was asked his Lordſhip by the Witneſs about a Year before the Death of Lord *Altham*, and that the Witneſs uſed to give the Boy Victuals, and that the Boy would lie about the Lands of *Inchicore*, and in the Ditches.

Croſs Examined.

Said, he never ſpoke to Lord *Altham*, but once about his Son, which was three or four Years before the Death of Lord *Altham*; that his Lordſhip lived at *Inchicore* Six or Seven Years before his Death, and believed he might have ſeen the Boy there about a Year before Lord *Altham*'s Death; ſaid, he did not mind how long his Lordſhip lived at *Inchicore*; ſaid, the Boy was very ragged, and would go backwards and forwards in that Condition;—ſaid, that tho' he knew the Boy to be his Lordſhip's Son, and his Lordſhip not taking any Care of the Boy, was the Reaſon, why he did not ſpeak to his Lordſhip oftner about the Boy.

Said, it was about four of the Clock in the Morning when they were a Drinking that he asked his Lordſhip the Queſtion about the Lad's being his Son.; ſaid, the Lord *Altham* did not appear to him to be drunk, when his Lordſhip made the Witneſs the Anſwer of the Lad's

being his Son by his lawful Wife, nor was the Witness drunk.

Council for the Plaintiff. My Lords, it is now too late further to proceed to examine more Witnesses; to-morrow we will speak to the Points referred, as to examining Mr. *Giffard*. And, by Consent of the Parties, the Court was adjourned to next Morning at Nine of the Clock. This Adjournment was made at Nine of the Clock at Night.

The Fifth Day of the TRIAL.

Wednesday, November 16, 1743.

THE Court having met according to Adjournment, and being sat, and the Jury called over, they severally appeared in the Jury Box, and being seated together.

Court. Council for the Plaintiff proceed.

Council for the Plaintiff. My Lords, we will proceed and call Mr. *Giffard* the Defendant's (the Earl of *Anglesey*'s) Attorney in *England*, to shew the Conversation between him and the Earl of *Anglesey* about the Trial of the Plaintiff, Mr. *Annesley* at the *Old Bailey* for Murder. In which Affair the Defendant, the Earl of *Anglesey*, was no way concerned, or was any Relation to the Man killed. And of the Earl's Declaration of giving Ten Thousand Pounds for having the Plaintiff Mr. *Annesley* hang'd; that of his Declaration, that he would go to *France*, and let *James* have his Right, he allowing the Earl three Thousand Pounds a Year, for that the Earl's Wife was worrying him in *Ireland*, and Mr. *Charles Annesley* in *England*, and that the Defendant could not bear it.

Council for the Defendant. My Lords, we of Council for the Defendant object to Mr. *Giffard* the Attorney's

ney's being examined to the Matters mentioned by the Plaintiff's Council, and pray to be heard to that Point.

Court. Speak to it.

Council for the Defendant. My Lords, an Attorney ought not to be examined to diſcover the Secrets of his Client, if he was no Man would be ſafe, there being ſo much Confidence repoſed in them.

Mr. Recorder of Dublin, for the Defendant. Put the Caſe of Deeds depoſited in the Hands of an Attorney, he ſhall not be examined to diſcover the Deeds.——

Council for the Plaintiff. My Lords, Mr. *Giffard* is not Attorney for the Earl of *Angleſey* in this Cauſe.

Lord Chief Baron. If a Perſon applies to an Attorney, or Agent, in an unlawful Act, where he is not concerned, to take away the Life of a Man, can't the Court come at that Attorney or Agent to diſcloſe that Matter.——

Mr. Baron *Mountney.* Suppoſing a Suit was depending between A. and B. relative to an Eſtate, and A. ſays to his Attorney, I know where the Deeds are that can deſtroy my Title, I will give you a thouſand Pounds to break open the Place and take away the Deeds, can't the Attorney be examined as a Witneſs to diſcover that Fact.

Mr. Recorder of Dublin. My Lords, that is not the Caſe here, for the Tye is between the Perſon employed and the Perſon employing; if the Attorney ſhould be examined after the Cauſe is over, he ought not to anſwer the Queſtion, becauſe he diſcovers that which the Party himſelf by Law was not obliged to anſwer or diſcloſe, and the rather the Attorney has no other Intereſt therein, but the Safety of his Employer; that an Attorney by Appointment is, *pone loco ſuo*, which ſhews that he ſtands in the Place of the Party; and that if an Attorney be examined as a Witneſs againſt his Client, the Lord Chancellor ſaid he was a *turpis teſtis*, without the Conſent of his own Client.——

Mr. Baron *Mountney.* Could not a Priſoner at the Bar examine a Witneſs who was on the Table giving Evidence

dence against him, whether he was not to get a thousand Pounds for taking away his Life?

Council for the Defendant. I think he ought not to be examined. An Attorney cannot be examined to disclose the Secrets of his Client, without his Consent, if he did, an Action of Deceit will lie against the Attorney, and the Party, tho' the Attorney should not insist on his Privilege, may insist that he should not be examined.——If this Person whom the Plaintiff would now examine, was an Attorney of this Court, your Lordships would not suffer him to disclose the Secrets of his Client, therefore your Lordships will not suffer any other Attorney to do that which your Lordships would not suffer your own Attornies to do, for an Attorney is sworn to keep the Secrets of his Client.

The Council for the Defendant then quoted the Case of *Fitzgerald* and *Rylans*, in this Court, of an Attorney's discontinuing a Suit without the Consent of his Client, and tho' the Judgment on the Discontinuance was made up, and of another Term, yet as this Discontinuance was and might be a Bar to the Plaintiff's Title, Discontinuance was vacated by the Party's bringing an Action against the Attorney, for his Damages would not avail the Party, his Title being barren, if the Discontinuance was admitted to stand in the way.

Mr. Serjeant Marshal for the Plaintiff. My Lords, this Person whom we now intend to examine, is not an Attorney in this Cause, nor is any Attorney further concerned than during the Time of his being retained; but an Attorney is not by his Oath to keep secret any Thing that is to the Prejudice of the Publick, or to deprive a Person of his Life, in which Cases, that Privacy between the Attorney and his Employer is discharged.——

Court. Call the Witness, and we will hear what he says relative to his being an Attorney.

Fifty-first Witness: *John Giffard* called and sworn.

Lord Chief Baron. Witness, are you an Attorney of any and what Court?

Witness. My Lords, I am an Attorney of the Court of Common Pleas in *England*, and admitted a Sollicitor in

in the High Court of Chancery there, in Pursuance of the Act of Parliament.

Lord Chief Baron. You know the Defendant the Earl of *Anglesey*, and are or were you at any Time and when concerned for him as an Attorney in any and what Suits or Causes, name the Parties, but not the Causes of Suits.

Witness. My Lords, I know the Defendant the Earl of *Anglesey*, and, in the Year 1722, I was employed as an Attorney for him in the following Suits.

The King against *Richard Annesley*, Esq;——*Crisdell* against the same; and was concerned for him in 1737 in Doctors Commons between him and his Countess. ——Lord *Haversham* and Earl of *Anglesey*, as Sollicitor in Chancery.——In 1741 the Earl of *Anglesey* and *Simpson*; Earl of *Anglesey* against *Henderson* a Quaker in the Court of Common Pleas, the same against *Cooper*; *Syons* at the Suits of *Banks*; and was sent for by the Earl of *Anglesey* to carry on a Prosecution against Mr. *Annesley* the Lessor of the Plaintiff for Murder;——and that he was not retained as Attorney or Solicitor for the Defendant the Earl of *Anglesey* in any other Cause or Causes whatsoever;———said, that he was retained the second Day of *May* 1742, to carry on the Prosecution for Murder;———said, that he could not be certain whether before or after the Retainer for the Murder, he had the last Conversation with the Defendant about the Right the Lessor of the Plaintiff had to the Title and Estate; that he is not concerned in this Cause either for the Lessor of the Plaintiff or the Defendant;———said, that all the Conversation he had with the Defendant about Mr. *James Annesley* was from the 7th of *December*, 1741, to the 2d of *May*, 1742, at which Time he was retained to carry on the Prosecution for the Murder.

That the Bill of Indictment was found against Mr. *Annesley*, *July* Sessions 1742, and that the Day of the Murder is laid in the Indictment the 1st Day of *May* in the 15th Year of the present King's Reign, being in the Year 1742;—said, he was not concerned for the Defendant

fendant in any other Causes than what he before mentioned, and that they were all determined;——said, the Conversation he had with the Defendant was not with an Intent that the Witness should be employed by the Defendant therein, for that the Defendant had employed Mr. *Gordon* and Mr. *Guard* two Attornies before, and that the Conversation was not with an Intent for the Witness to be employed in any Suit or Suits against the Lessor of the Plaintiff.

Lord Chief Baron. The Defendant's Council said, they would shew a Colloquium between the Earl of *Anglesey* and the Witness.——

Council for the Defendant. My Lords, we will ask the Witness a few more Questions about his being employed by the Defendant.——

Witness, when was you employed to carry on the Prosecution.

Answer'd, he was employed the first Week in *May*, 1742 in the Prosecution.

Witness, Had you ever any Instructions from *Gordon* or *Guard*, in any other Cause or Causes for the Defendant?

Answered, That he never had any Instructions from *Gordon* or *Guard*, but about the Prosecution for the Murder, and not in any other Cause.——

Lord Chief Baron. The Witness having answered the several Questions aforesaid, is there any Reason why he should not be examined to the Conversation which happened before the first of *May* 1742.

Council for the Defendant. My Lords, we will ask the Witness some more Questions.——

Witness, did you charge the Defendant with any Term Fees from the latter End of *November* 1741, but to *February* following.

Answered, he was concerned for the Defendant to that Time, and does not charge him any Term Fees after.——

Mr. *Prime Serjeant Malone*, for the Defendant. My Lords, this is the greatest Question and of the utmost Consequence to the Publick in General as ever came before a Court.

Court. The Witness must go down that this Point may

may be ſpoken to,——and the Witneſs withdrew accordingly.

Council for the Defendant. My Lords, from what has come out of the Witneſs's Mouth when on the Table, it appears that he was Attorney for the Earl of *Angleſey* ——and we will ſay no more to this Point till we hear what the Council for the Plaintiff will ſay to it, and beg leave to reply.———But we of Council for the Defendant ſay that the Attorney ought to demur to any Queſtion aſked him.———

Court. Council for the Plaintiff, Speak to the Point now before the Court.

Mr. *Serjeant* Tiſdell *for the Plaintiff.* My Lords, the Queſtion to be ſpoke to, is, whether the Witneſs lately on the Table ſhall be examined or not, he being formerly an Attorney for the Defendant the Earl of *Angleſey* in other Cauſes;——My Lords, the Witneſs on his Examination denied on his Oath that he had any Expectation of being employed by the Earl of *Angleſey* againſt the Leſſor of the Plaintiff when the Converſation happened between them,——and we only produced the Witneſs to examine him to the Converſation he had with the Defendant, relative to the Plaintiff's Right to the Matter now in Queſtion wherein the Witneſs is not employed, therefore there is no Secret in that Matter, he not being employed as an Attorney or Sollicitor——My Lords, as to the Proſecution for the Murder that was to affect the Life of a Man, it is juſt and lawful to diſcover it, and does not intervene with the Oath of an Attorney as the Council of the Defendant would urge, and the Converſation was long before that Fact happened.

Another Council for the Plaintiff.——My Lords, I do admit that an Attorney ſhall not be Evidence in a Cauſe wherein he is concerned, and came to the Knowledge of that Mattter as Attorney in the Cauſe, but if any Matter comes to his Knowledge, tho' an Attorney, and yet not concerned as Attorney in that Cauſe, nor doth the Matter come to his Knowledge as Attorney in that Cauſe, the Attorney in that Caſe ſhall be examined as a Witneſs. And this is now the Caſe before the Court;——can it be ſaid or imagined that an Attorney once imployed by a Perſon, that the Attorney's Mouth ſhould be ſhut up for

ever, that is unreaſonable, when the Matter comes to his Knowledge not as an Attorney.

Another Council for the Plaintiff.—My Lords, the Caſes urged by the Council for the Defendant ſhews that the Attorney examined, was Attorney in that Cauſe, and the Merits came to his Knowledge barely as Attorney in the Cauſe, and if the Rules laid down by the Council for the Defendant were to be allow'd, it would totally ſubvert Truth and Juſtice, and hide the blackeſt and worſt Crimes. My Lords, if an Act of Parliament was made that an Attorney ſhould not be a Witneſs in any Cauſe whatſoever, it would be againſt the Divine Laws of God, becauſe Truth muſt not be ſtifled. My Lords, our examining this Witneſs is only as to the Defendant's Apprehenſion and his Declarations of the Plaintiff's Right to the Lands in Queſtion, and not to the Proſecution for the Murder.——My Lords, if an Attorney receives from his Client any perpetrating Fact which would overthrow Juſtice, in that Caſe the Court cannot give the Privilege to the Attorney not to be examined, nor can any Protection be given by any Court to prevent the Diſcovery of mortal Actions. My Lords, if an Attorney was at a Trial for Murder, and the Priſoner at the Bar call upon the Attorney to be examined as a Witneſs, would not the Witneſs on the Table be obliged to give Evidence: I am ſure the Court would examine him, and not give him a Protection; and in that Caſe the Attorney might give Examination of the Bribery againſt his Client.———And from what hath been urged by the Gentlemen who ſpoke of the ſame Side with him, he hoped the Witneſs ſhould be called and examined to the Matter of the Converſation and the Declarations of the Defendant's relative to the Leſſor of the Plaintiff's Title, and then ſubmitted to the Opinion of the Court.

Court. Gentlemen of the Council for the Defendant, you are deſired to reply, and may go on, the Plaintiff's Council having ſubmitted to the Opinion of the Court, as to the Point now ſpoke to.——The Council for the Defendant then replied.

Mr. *Prime Serjeant Malone.* My Lords, notwithſtanding what has been offered by the Council of the Plaintiff that the Witneſs Mr. *Giffard* ought to be examin'd, I

ſhall offer my Reaſons to the Court to the contrary. ——My Lords, it appears from the Mouth of the ſaid *Giffard*, that he was Attorney for the Earl of *Angleſey*, the now Defendant in this Cauſe, in ſeveral Cauſes from the Year 1722 to the Year 1741, and that there was a mutual Confidence between them. My Lords, if a Client ſhou'd unprovidently diſcover any Thing to his Attorney no way relative to the Thing in Diſpute or Queſtion wherein he was not concerned as Attorney, that Attorney ought not to diſcover it, from the mutual Confidence and Relation between them;—— and if it was not from that Confidence no ſuch Diſcourſe very probably would have aroſe between them; and that the Converſation between the ſaid *Giffard* and the Defendant is relative to the Matter now depending, and mentioned the Caſe of *Say* and *Say*.

My Lords, an Attorney ought not to diſcover any Thing, tho' the Suit is determined, in any other Matter that comes to his Knowledge during the Pendance of that Suit; and he ought not to be examined, for if that was admitted it might be in the Power of an Attorney or Council, if they ſhould be baſe enough to do it, to ruin any Man.

As to an Attorney's Obligation to the Publick, or to his Prince, it is a prior Engagement; yet if he be retained to defend his Client, he ought not to diſcloſe his Secrets.

My Lords, I will put this Caſe: If a Man kills another, and is indicted for the Fact, and no Perſon can prove it, but by what the Man diſcloſed to his Attorney, by telling him that he killed the Man; yet from the Truſt and Confidence between the Attorney and his Client, the Attorney ought not to get up, and diſcover, or give Evidence of that Fact,—and compared that Caſe to the Matter now upon the Queſtion before the Court.

Mr. *Attorney General*. My Lords, this Man, who is to be examined, is not a competent Witneſs, for, my Lords, the ſame Neceſſity of the Law that gives Privilege to a Perſon to employ Council and Attorney, at the ſame Time gives the Privilege of not diſcloſing what came to their Knowledge from their Client, and men-

tioned the Case of *Say* and *Say*; and said, it is not much Matter to the Defendant, whether this Witness be examined or not, for from what he should disclose, being from the Confidence his Client reposed in him, he hoped the Jury would not credit him.

Another Council for the Defendant. My Lords, the Privilege of an Attorney is to keep the Secrets of his Client, and not to discover them. And whether this Conversation was previous or subsequent, it is the same Thing from the Confidence reposed in him, and of his being employ'd afterwards in that very Prosecution;—— said, he knew no Case wherein a Client waved the Benefit of preserving the Privilege that his Attorney should not be examined as a Witness against him, but in the Case of a Deed, where the Client will have his Attorney a Witness thereto. In that Case, the Client waves the Privilege he might insist on, if he had not been a Witness, the Client in that Case making it necessary that his Attorney should be called on to prove the Execution thereof, tho' he was Attorney for the Party at the Time of the Execution of the Deed.

Another Council for the Defendant. My Lords, if a Bill was filed against the Defendant to disclose this Matter relative to the Trial for the Murder, he would not be obliged to disclose it, then the Defendant's Attorney shall not under the Trust and Confidence reposed in him relative to that Matter discover it. And the Defendant can insist on that Privilege, and not suffer him to be examin'd; and besides the Publick is concern'd in the Determination of this Matter, from the Discovery of Confidence between the Attorney and his Client,—— and hoped this Witness should not be examined.

Court. The Point now before the Court has been fully spoken to by the Council on both Sides, the Court must give their Opinion, in order that this Trial may be proceeded on.

Lord Chief Baron. Every Case must stand upon its own Bottom, and not relative to general Cases.

The Question here is, whether the Witness came to the Knowledge of what he has by being Attorney.

The Policy of the Law must be complied with; that is, to retain the Attorney; but when the Client discloses

to

to his Attorney any Secret as a Friend, he depends on him under that Notion.

And this Court has nothing to do in this Matter, for it was in the Option of the Party not to disclose it; but here this Witness is not retained, the Suit not being instituted. As to the Case mentioned in *Ventris*, is all relative to what came to the Attorney's Knowledge, when employ'd as Attorney in the Cause. As to the Case of *Say* and *Say*, that was upon a common Recovery, and a Deed to declare the Uses of the same, and no proper Tenant to the Precipe.——And then his Lordship mentioned a Case in Chancery, where Mr. *Hamilton*, an Attorney and Agent, insisted on his Privilege not to be examined, because he came to the Knowledge of the Matter by being Attorney retain'd therein.——But this, said his Lordship, is not the Case now before the Court, and I am of Opinion the Witness should be examined.

Mr. Baron *Mountney*. From the Position and Cases laid down by the Defendant's Council makes against them; the same being from the Confidence reposed as Attorney only in that Cause.

A Man's Declaration, that he would give Ten Thousand Pounds, to have a Man hang'd, is no innocent Expression, and must such a Matter never be discovered, because the Witness was once employ'd as an Attorney; it is contrary to Justice, and the Publick Good.—And I agree with the Lord Chief Baron, that the Witness shall be examined.

Mr. Baron *Dawson*. That which came to the Knowledge of the Witness as an Attorney, and necessary to carry on the Prosecution, ought not to be disclosed, but what the Defendant discovered to his Attorney, not relative to the Prosecution, he intrusts as his Friend, and upon that Confidence only; and therefore ought, for the Sake of Justice and the Publick, to disclose the same.—— And agreed, that the Witness ought to be examined.

Court. Call the Witness.

John Giffard, called and sworn again,——and, being examined, said, that some Time in the Month of *March* 1741, the Defendant, the Earl of *Anglesey*, had an Appeal depending before the House of Lords in *Great Britain*, with *Charles Annesley*, Esq; that the Defendant told

told the Deponent, that from the Trouble of the many Suits he was in, he would ſend for the Leſſor of the Plaintiff, Mr. *James Anneſley*; and if he would give him 3000*l*. a Year, he would ſurrender up his Right and Title to the *Angleſey* Eſtate, and other his Eſtates,—and that he, the Defendant, would go and live in *France*, and would rather his Brother's Son ſhould have it than any of the *Anneſleys*; for that if *Jemmy* (meaning the Plaintiff) had the Eſtate, he the Defendant ſhould live happy and eaſy, for *Jemmy*'s Title could not be diſputed; that he the Earl did not value the Title, for he would go and live in *France*; and would ſend for a *French* Maſter to teach him the *French* Tongue, and accordingly the Defendant ſent for one *Bath*, a *French* Officer, to bear him Company for that Purpoſe;——ſaid, this Converſation was in *May* 1741, and the Earl of *Angleſey* continued in the ſame Mind and Reſolution till the Firſt of *May* 1742, at which Time the Plaintiff, Mr. *Anneſley*, had ſhot a Man.

That on the Second of *May*, the Earl of *Angleſey* ſent for the Deponent to carry on a Proſecution againſt the Plaintiff Mr. *Anneſley* for the Murder, and to follow the Directions of *Gordon* and *Guard*, with Mr. *Jones* a Surgeon, who was concerned with the Earl of *Angleſey*; that the Deponent accordingly carried on the ſame by the Directions of the aforeſaid Perſons; that in two or three Days after the Earl of *Angleſey* told him, that he had conſulted with *Gordon* and *Guard*, and that it was not proper for him to appear in it, and that he did not care if it ſhould coſt him Ten Thouſand Pounds, if he could get the Plaintiff hang'd, for then he the Defendant would be eaſed and quieted in his Title and Eſtate; ſaid, it was the Defendant himſelf told the Deponent that he was adviſed it was not proper for him to appear in that Affair, but that the Deponent ſhould from Time to Time call on Mr. *Jones* at the *White Croſs* for Money, which he had ordered the ſaid *Jones* to give the Deponent for that Purpoſe; that he called on Mr. *Jones* for Money, which he gave the Deponent accordingly; and ſaid, that *Jones* was Agent and Manager for the Earl of *Angleſey*.

Croſs

Croſs Examined.

Said, the Converſation was about the Tenth of *March* 1741, and believed that the Plaintiff Mr. *Anneſley* was then in *England*;——ſaid, he did not ſee Mr. *Anneſley* till he ſaw him at the Bar for the Murder;——ſaid, that the Defendant knew that Mr. *Anneſley* had come to *England*, and had employed Mr. *Pattiſon* and Mr. *M'Kircher* againſt the Defendant to recover his Right;——ſaid, he kept a particular Entry of all the Tranſactions, and a Day Book whereby he knew what he had done, and the next Morning made a particular Entry of all the Buſineſs he did the Day precedent;——ſaid, he attended the Coroner's Inqueſt in order to find out Witneſſes, and took Notes thereon in order to enable him to carry on the Proſecution;——ſaid, no Examinations were given on the Coroner's Inqueſt, but what the Coroner took in Scraps of Paper, and the Evidence given *Viva Voce* before the Grand Jury by the Man's Brother that was ſhot.

Said, he applied to Sir *Thomas Reynolds*, a Juſtice of the Peace, who took Examinations of the Fact, to let the Witneſs ſee the Examinations, and he refuſed it, and ſaid he would not ſhew them until he produced them in Court;——ſaid, no Examinations were ſhewn him;——ſaid, the Coroner's Inqueſt found the ſame *Wilful Murder*, and that great Variance was in the Evidence on the Trial from that given at the Coroner's Inqueſt;——ſaid, the Evidence was ſtronger before the Coroner than at the Trial;——ſaid, the Evidence on Behalf of the Crown on the Trial was diſcredited in Court; and that *Paul Keeting* was an Evidence for the Priſoner, and that *John Egleſton* was the ſtrongeſt Evidence for the Crown;—ſaid, he had Converſation with the ſaid *Egleſton* and *William Williams* at the *White Croſs* about the Matter;——ſaid the Fact was ſaid to be committed between one and two of the Clock in the Day, and was ſaid to be preſent, *John Egleſton*, and one *Fiſher*, and *John Edgworth*; and ſaid, there were Variations on the Trial on the Croſs Examination, from what was given before the Coroner——ſaid, the Coroner's Inqueſt was held the 4th of *May*, and the Trial was

on

on the 14th Day of *July* following;——ſaid, he underſtood the ten thouſand Pounds to be given by the Defendant the Earl of *Angleſey* was to deſtroy the Plaintiff Mr. *Anneſley*, and that he purſued the Directions given him for carrying on the Proſecution as far as he could.

Said, he often heard the Defendant call Mr. *Anneſley* the Pretender, and ſay he would aſſure more than the ten thouſand Pounds, if the Plaintiff the Pretender was hanged, for that he the Defendant the Earl of *Angleſey* ſhould then have the quiet Poſſeſſion of the Title and Eſtate, without any Trouble;——ſaid, he did not think it a bad Proſecution when the Coroner's Inqueſt brought in the ſame *Wilful Murder*.

Said, that it was on the ſecond Day of *May* he was ſent for, and that one *Thompſon Gregory* came for the Witneſs from the Defendant the Earl of *Angleſey*; that he went where the Earl of *Angleſey* was in Company, with a great many Perſons, where there was great Rejoicings, the Defendant ſaying, that Mr. *Anneſley* had now done his own Buſineſs, and had ſhot a Man.——That the Witneſs on the third Day of *May*, went down to *Stains*, where the Murder was committed; and on the fourth of *May* he went there again on the Coroner's Inqueſt, and in the Evening of the ſame Day, the Earl of *Angleſey* met the Witneſs with his Coach and ſix to know how Matters went;——ſaid, that it was the Church Wardens of *Stains*, by orders of the Earl of *Angleſey*, that employed the Witneſs to carry on the Proſecution, and that on the eighth Day of *May* he got his Warrant from the Church Wardens to carry on the Proſecution, and produced the Warrant on the Table in his Hand, and read it;——ſaid, the Coroner's Inqueſt was his Foundation for engaging in that Affair, otherwiſe he ſhould not;—ſaid, the Ballance due to the Witneſs for the carrying on the Proſecution and the other Affairs for the Earl of *Angleſey* is three hundred and forty Pounds, ſubject to Taxation; ſaid, it was not by the Witneſs's Directions that the Letter was ſent to him by the Churchwardens, but by order of *Garden* and *Guard*, and by the Witneſs's Privity, that the

the Earl of *Anglesey* should not be seen to appear in it; ——said, that it was on a Consultation with *Garden*, *Guard*, *Jones*, and the Earl of *Anglesey*, that that Matter was to be done by the Churchwardens, and to call in Assistance with the Witness, the latter to colour the Prosecution.

Said, he knows of no Witnesses being bribed to give Evidence on the Trial, but that it was known and understood at the Time of the Trial, that Mr. *Annesley* would sue for the *Anglesey* Estate.

Said, if Mr. *Annesley* should carry this Suit the Witness will lose every Farthing of his Bill of Costs.—Said, he sued the Earl of *Anglesey*, for his Bill of Cost, on which the Earl filed a Bill against him in the Court of Exchequer in *England* to discover his Bill of Costs, and the Suit the Witness was concerned in for him.—And upon the Witness's answering the Bill, and annexing the Schedule to his Answer, it then came out that the Earl of *Anglesey* was concerned in the Prosecution of Mr. *Annesley* for the Murder, and not before.

Here one of the Council for the Defendant, said, that the Witness was an incompetent one, and ought not to be credited.

Lord Chief Baron. The Witness answering the Questions put to him of his being an Attorney, can't go to an Imputation of his Character, when the Court said, the Evidence he was to give was Law.

Council for the Defendant. Witness, Had you any other Clients but the Earl of *Anglesey*.

Witness said, he had many Clients and Men of Honour that paid him, and would not have made this Discovery if he could have prevented it, for it was the Seeking of the Earl of *Anglesey*, by filing the Bill against the Witness, which he had answered, that the Discovery was made, and the Persons concerned for the Plaintiff Mr. *Annesley* found it out; that the same being Matter of Record they could have got Copies there of, and when they applied to the Witness for the Truth, he told them and made an Affidavit, or was examined before a Master in Chancery.

Council for the Defendant. Witneſs, Is the Defendant the Earl of *Angleſey* a paſſionate Man, and was not he in a Paſſion at that Time when you ſay the Converſation was.

Witneſs ſaid, the Defendant is a paſſionate Man, but was not at the Time of the Converſation in any Anger or Paſſion, but ſerious; ſaid, the Defendant the Earl of *Angleſey* was then at Difference and Diſpute with the *Anneſleys* when the Defendant made the Expreſſion, and that no Perſons were preſent at their Meeting, but they were always private; ſaid, he ſwore in *London*, on a Commiſſion, the Declarations that the Defendant the Earl of *Angleſey* made to him concerning Mr. *Anneſley*; ——ſaid, it was Mr. *M'Kircher*, Mr. *Pattiſon* and others being concerned for the Plaintiff Mr. *Anneſley* that applied to him firſt to come over here to be a Witneſs in this Cauſe, but that he was not ſubpœna'd, but they declared they wou'd compel him to do it, as being but Juſtice, and thereupon he came over to this Kingdom for that Purpoſe.

Said, he had often heard the Defendant, the Earl of *Angleſey*, ſay that the Pretender, as he called the Plaintiff, was tranſported for ſtealing a Silver Spoon, and often heard him alſo ſay that the Plaintiff Mr. *Anneſley* was his own Baſtard, and at other Times his Brother's Baſtard, and that he himſelf had had a Child by *Joan Landy*, and had put the Child on the Lord *Altham* his Brother, for that his Brother was better able to maintain it than he;—ſaid, the Diſcourſe about the Baſtard was at the Earl of *Angleſey*'s Lodgings, and that one *Rolph* was by, and the Earl of *Angleſey* ſaid, that there was *Rolph* who could prove it.

Fifty-ſecond Witneſs. *Richard Baily*, Gent. ſworn and going to be examined, he objected himſelf that he ſhould not be examined as a Witneſs in this Cauſe being a Perſon in Intereſt;—that he was a Purchaſer under the late Lord *Altham*, and the preſent Defendant the Earl of *Angleſey* to Part of the *Angleſey* Eſtate, which he purchaſed and paid the late Lord *Altham* 300 *l.* for making the Witneſs a Leaſe in Reverſion after the Death of the late Earl of *Angleſey*, and gave 100 *l.* to the preſent Earl for

for confirming the same; both which Deeds he had then in his Hands to produce to the Court; that he never was paid back his Money nor had Possession of the Land, and had a Right to sue for the same, therefore submitted to the Judgment of the Court whether he shou'd be examined.

Court. He is not a competent Witness having a Bias on him,—and the Witness withdrew.

Council for the Plaintiff. My Lords, we have many other Witnesses to examine for the Plaintiff, but rest here now, with Liberty to produce other Witnesses if Occasion there be, when the Witnesses for the Defendant are examined.

Court. Council for the Defendant, the Earl of *Anglesey*, go into your Defence.

Mr. Attorney-General of Council for the Defendant.

My Lords, and you Gentlemen of the Jury, I need not tell you that this Trial has already been drawn out into a very great Length, occasioned by the Importance of the Cause, and the great Number of Witnesses examined on the Part of the Lessor of the Plaintiff: A Cause of the utmost Consequence, by the Issue of which will be determined, whether a Beggar, and a transported Slave shall be an Earl, or an Earl a Beggar; whether a Person, who has been hitherto reputed a Bastard, and whom we doubt not to prove so, by other Witnesses than those that have been called for the Plaintiff, shall inherit the Titles, the Honour and Estate of a Nobleman, or a Nobleman be dispossessed of his rightful Inheritance to all these, and reduced to the lowest Rank of Plebeians. It is a Cause which, I may truly say, will affect the Peerage in general; since there is not one of that noble Body but is liable to the same Imposition, and who, by the Machinations and Intrigues of some cunning politick Heads, may have an Heir trump'd up after his Decease, one of spurious Breed and taken from among the base Multitude, to succeed to his Honours and Estate; and so jostle out the rightful Heir, to the great Debasement of the Family, the Dishonour of the Peerage, and the Breach of Justice. A Precedent of the Nature of this Trial, I believe, cannot be produced for some Ages

past; wherein a Nobleman has been possessed of his Titles and Estate for Sixteen Years together, lawfully descended to him from his Brother, without Impeachment from any Body all that Time, shall all of a sudden be attacked, and endeavoured to be outed of all his Possessions and Dignities, which he has had so long the peaceable and uninterrupted Enjoyment of; and by whom? Why, by the illegitimate Son of a common Woman; a Child begot in Bastardy, his Mother turned out of Doors for Whoredom, the Boy for his Roguish Tricks and Misbehaviour turned adrift among the Riffraff of the Town, and at last transported for Misdemeanors which he was then charged with. However, notwithstanding all these Transactions, of which we have undoubted Proof, this Person of no Birth, nor any other Quality that can intitle him to any higher Rank or Station than what he has hitherto had, is lately returned from his Transportation, and, to the Astonishment of all the World, has took it in his Head to fancy himself a Peer of the Realm, and to believe himself the indubitable Heir of the late Lord *Altham*, some Years since deceased. How he came to be spirited on to make this extraordinary Claim, and in what Manner he supports his Pretensions to the Title and Estate of that noble Family, has been pretty well shewn in the Course of the Evidence; and I doubt not but it already appears to your Lordships, that he has built his Hopes on a very sandy Foundation; but by that Time we have gone through the Evidence which we have to produce on Behalf of the Defendant, I am persuaded there will not remain the least Scruple with your Lordships in deciding this Controversy in Favour of the Defendant *Richard* Earl of *Anglesey*.

But, my Lords, before I enter into the Particulars of the Defendant's Case, or endeavour to convince the Court, from Facts and Evidence, what little Reason the Plaintiff had to bring this Action; it will be necessary, in order to refresh your Lordships Memory, and to set the Evidence on the other Side in a true Light, to trace the several Steps taken by the Council in Behalf of the Lessor of the Plaintiff.

And

And first, my Lords, the Council for the Plaintiff have taken a great deal of Pains to shew, that Lady *Altham* had a Son; that that Son was christened by a Clergyman, and in the usual Form; that he was nurs'd for some Time by a Woman at a little House the Distance of a Field or two from his Lordship's Seat; and that he was afterwards brought home, and the greatest Tenderness and Affection shewn to him by the Lord and Lady *Altham*, and regarded by the Family as their Child.

Secondly, They have likewise been very particular in their Account of a Separation which happened between Lord and Lady *Altham*; this Point we shall not dispute with them, but readily admit it.

Thirdly, They acquaint us with the Son's removing to several Places where Lord *Altham* resided;——as at *Kinna*, *Carrickduff*, *Stephen's Green*, *Cross Lane*, *Proper-Lane*, and *Inchicore*; of his being in the Care of a Tutor in his Lordship's House, and put to School under several Masters.

Fourthly, That Lord *Altham* was so far from disowning him to be his Son, that he always acknowledged him as such, did the Part of a Father, cloathed him as a Nobleman's Child, treated him as his Heir apparent, and often said in Company, that they would one Day see that Boy Earl of *Anglesey*. And yet, after all this, strange as it is, this favourite Child, this Darling of the Father, they tell us, is thrown upon the wide World, abandon'd to all the Hardships of Fortune, disowned and forsaken by his Father, become a Vagabond about the Streets, tho' pitied, relieved, and entertained by Strangers. But the Reasons which induced the Father to act this cruel Part by his Child, and the Means he used for that Purpose, are, perhaps, as extraordinary as ever came within your Lordships Knowledge. The chief Reason they alledge for his committing so base, so inhuman, so barbarous an Action, was to gratify the Humour of a proud, fantastical Mistress. But surely your Lordships and the Jury can scarce believe, that a Nobleman should cast off, abandon, and disinherit his only Child, the Hopes of his Family, merely to please a wanton Woman, a Stranger to his Blood, and whose only View was to gratify her Passions

Passions of Lust and Avarice: This, I say, must exceed the Belief of every rational thinking Man, since the most savage, the most uncultivated Creature upon Earth, either Human or Brute, is very seldom known to be guilty of so unnatural a Crime.

Fifthly, That the Defendant, the Earl of *Angleſey*, transported this Boy into *America*, where he was sold for a Slave. This the Council on the other Side have been pleas'd to aggravate with many heinous Circumstances, and invidious Reflections on his Lordship; and have not scrupled to insinuate, that his Lordship's only View in sending him away, was, that he might the better secure his Title to his Brother's, the late Lord *Altham*'s, Estate and Honour; since so long as the Boy staid in the Kingdom, say these Gentlemen, he would have been a continual Rub in his Lordship's Way, and perhaps might, some Time or other, have been spirited up to put in his Claim to the whole Inheritance. This they say, but how contrary to Truth, we shall shew by and by.

Sixthly, That the Plaintiff was tried for Murder at the Instigation, and by the Prosecution of the Defendant; which, to be sure, could they make appear to the Satisfaction of your Lordships and the Jury, it must have a great Weight in the Cause now at Issue, and give you a very disadvantageous Opinion of my Lord *Angleſey*. But, we doubt not, we shall be able to clear his Lordship's Character from all such foul and base Aspersions, and to convince your Lordships, that he is as innocent, as he is uncapable of such vile and scandalous Actions.

These are the Steps, my Lords, and this the Substance of the Evidence that has been given, to induce the Court and the Jury to believe, that Mr. *Annesley*, the Lessor of the Plaintiff, is the true and legitimate Son of the late Lord *Altham*, and in Consequence thereof, is entitled to recover the Estate now in Dispute. Now, my Lords, before we proceed to invalidate the Evidence that has been given on the other Side, before we produce the Witnesses we have to Facts, which will set this Matter in a quite different Light, before we attempt to prove the Defendant's Right to the Estate, which he has quietly and peaceably enjoy'd ever since the Demise of his Brother, the Lord *Altham*; I say, before we do this, it will

be

be necessary to set forth the State and Circumstances of that Family.

My Lords, there was an Estate of 1200*l.* a Year, which *Arthur* Lord *Altham* had sold—the other Estate he was only Tenant for Life of, and to go to his Issue Male, and for want of Issue to *Arthur* late Earl of *Anglesey*, Remainder to the Defendant, as appears by Wills and Codicils.

My Lords, *Arthur* Lord *Altham* had a greater Prospect of an Estate in Value than that he had sold.

My Lords, *James* Earl of *Anglesey* being the Common Ancestor on the Restoration, he had four Sons, *John* his eldest, who died without Issue; *Richard* his second Son, who had two Sons, *Arthur* late Lord *Altham*, and *Richard* the Defendant now Earl of *Anglesey*.

James his third Son, who had Issue, *Arthur*, *Richard* and *James*.

Arthur his fourth Son, who had no Issue.

Earl *James* levied Fines, and suffered Recovery of his Estate, and by his Will, 14*th* of *May* 1701, limitted an Estate to *Richard* Lord *Altham*, the Defendant's Father, and that Day made a Codicil. In *December* 1701, Earl *James* made another Will, *Richard* Lord *Altham* the eldest Son of *Richard*, and to his first and other Sons in Tail-Male, Remainder to his Uncle *Charles*; and the Defendant *Richard* then was alive, and the only Heir Male in the Family was cut out of the Will.

That a Dispute happening in the Family after the Death of *Arthur* late Earl of *Anglesey*, on the Will and Codicil of the 14*th* of *May* 1701, which of them should prevail, it was doubted whether the Estate should go over to *Charles Annesley* and not to the Defendant; that from the Prospect of so large an Estate it would have drawn the Attention of all the Family, if *Arthur* Lord *Altham* had a Son at the Time pretended, as in the Year 1715.

My Lords, in order to convince the Court and the Jury, that the Defendant has an inconteſtible Right to the Premisses in Question, that he ought not, that he cannot be lawfully outed thereof, I must take the same Course that the Plaintiff has done, and shew, (notwithstanding some of the Witnesses on the other Side have sworn so roundly to the contrary) that the Lady *Altham* actually never had a Child, nor so much as ever miscarried.

Secondly,

Secondly, We shall give you a very particular and exact Account of several Occurrences that happen'd before her Ladyship came to *Ireland* in 1713; of the Occasion of her going to *Dunmain*; as also the Manner, Causes, and several material Circumstances relating to the Separation of my Lord and Lady *Altham*. Thirdly, In regard to the pretended Birth at *Dunmain*, we shall give your Lordships and the Jury quite another Account of that Affair, more agreeable to Truth, and more connective with Probability, than the Gentlemen on the other Side have done, since the Facts we shall advance, will be founded on undeniable Evidence.

Lady *Altham* had a Right to be visited by all the Prime Families in the Kingdom, as she was the Consort of the Right Honourable Lord *Altham*; and she accordingly had that Deference and Respect paid her, being visited by the Chief of the Nobility wherever she came. Now, had her Ladyship been with Child, is it not highly probable, that she would have intimated it to some of these noble Persons, at least to those of the Female Sort, that she had conceived with Child, and was in hopes of bringing my Lord an Heir? Nothing is more natural than for Women to talk in this Manner among themselves. It has been an Observation, Time out of Mind, with regard to the Fair Sex, and I believe seldom or ever fails holding good, that a Woman, after she is married, is desirous of having Children, and very often fond of being thought with Child, even tho' she has no Signs of Pregnancy. But not a Word, not a Syllable of all this in relation to Lady *Altham*, none of all her noble Acquaintance ever heard her talk of her Great Belly, or of any Son that she had, or was like to have. Is it possible, is it credible then, that Lady *Altham* should conceive with Child, be actually brought to Bed, lie in her Month, christen the Child, have Nurses and Rejoicings at it, and yet no Body know any thing of the Matter, except two or three Persons whom the Plaintiff has brought out of Obscurity, to give some Countenance to his Cause? But, to put this Matter out of all Doubt, we shall follow her Ladyship from Place to Place during her supposed Pregnancy and Lying-in, and see whether she could have escaped the publick Notice, had she really been in that Con-

Condition we ſhall ſhew, that in the Spring, 1715, ſhe was at *Wexford* Aſſizes; we ſhall likewiſe deſcribe in what Manner ſhe came to Town in the Month of *May* in the ſame Year; and then, my Lords, we ſhall call the principal Servants of the Family, Perſons of a very different Stamp, from thoſe examined for the Plaintiff, who will prove that Lady *Altham* never had a Child at *Dunmain*.

I confeſs, my Lords, it is very difficult to prove a Negative; yet I don't in the leaſt doubt but we ſhall be able to prove, to the Satisfaction of the Court and the Jury, that the Fact will turn out quite contrary to the Evidence that has been given by the Witneſſes for the Plaintiff; and in ſuch a Manner as to have no Doubt with your Lordſhips, who is the Perſon that ſhould in Law ſucceed to Lord *Altham* in his Title and Eſtates.

My Lords, we will prove, that inſtead of Lady *Altham*'s ſaying ſhe had a Child, ſhe frequently lamented her Misfortune in not having one; and alſo that Lord *Altham* often expreſs'd his Uneaſineſs on the very ſame Account. We will alſo give a true and diſtinct Account of the preſent Mr. *Anneſley*, the Leſſor of the Plaintiff, from the Day of his Birth to the Time of his leaving this Country. We will ſhew that the Plaintiff, Mr. *Anneſley*, was the Child of one *Joan Landy*; that *Joan Landy* was at Lord *Altham*'s Houſe as a Servant at the very Time when Lady *Altham* went to *Dunmain*; that when *Joan Landy* grew big with Child, ſhe was turned away, and went to her Father's *James Landy*'s Houſe, and was brought to Bed there. We ſhall go further, and bring undeniable Proof of that Child's Chriſtening, and in what Manner, and for what Reaſon he came to be brought back to Lord *Altham*'s Houſe after the Separation betwixt him and his Lady; and that he was owned and conſidered as his Baſtard only, and that Lord *Altham* ordered him to be kept from his Mother *Joan Landy*. We have likewiſe Evidence to prove, that the Child, which the Plaintiff's Witneſſes pretend has been long ſince dead, and which they ſay was the Child of *Joan Landy*, is not dead, but that the preſent Plaintiff, Mr. *Anneſley*, is that very ſame Perſon; that he was put to School at

Dunmain by the Order, and at the Expence of Lord *Altham*; that at *Kinna* he was neglected, and that for that Reason his Mother *Joan Landy* took him away from thence; that of his being at *Carrickduff*, and the Manner he was treated there by several Persons related to the Family. We shall also give an Account of his coming to *Dublin* afterwards, and his being generally reputed and taken for Lord *Altham*'s Bastard; that Lord *Altham*, after many fruitless Trials to work some Good upon him, finding him of a perverse ungovernable Temper, turned him away as incorrigible; and that he was in *Dublin* in the meanest and lowest Condition, not better than a Vagabond, wandering the Streets, and lurking about the College, where he was generally reputed a Bastard.

As to the Defendant's spiriting the Boy away, even the Plaintiff, had we no Proof of our own to produce, has shewn, that all which the Defendant did in that Matter was legal.

But, my Lords, we shall prove that the Defendant was so far from using any Craft, Fraud, or Force to send the Plaintiff abroad, as being the only Obstruction he had to the Enjoyment and full Possession of Lord *Altham*'s Estate, that the Plaintiff himself made Application to the Defendant to put him in a Method how he should go abroad as a Servant; that accordingly the Defendant did prevail and agree with the Master of a Ship to carry him abroad; that the Plaintiff went freely and voluntarily with the Defendant on Board the Ship; that when he was on Shipboard he shewed himself openly and was spoke to; and that he went by the promiscuous Names of *James Annesley* and *James Landy*. And with Regard to the Prosecution of the Plaintiff for Murder, which the Gentlemen on the other Side have insinuated, was carried on at the Expence of the Defendant, the Earl of *Anglesey*, with a great deal of Virulence, Malignity, and barbarous Inhumanity, we will give a better and more impartial Account of that Affair than the Person examined has done; and from all which it will manifestly appear, that what has been sworn for the Plaintiff is false, and that the Plaintiff is the Son of *Joan Landy*, and not of Lady *Altham*.

My

My Lords, we will likewiſe ſhew that Mrs. *Heath*, whoſe Name has been frequently mentioned in the Courſe of the Evidence for the Plaintiff, and called Lady *Altham*'s Woman, was really her Servant-Maid to the Time of her Ladyſhip's Death, which happened in *England* in the Year 1729; that her Ladyſhip knew of the Death of her Huſband for two Years before ſhe died; that ſhe was in *Dublin* before ſhe went over to *England*; that ſhe never enquired for her Son, never ſpoke a Word of her Son, either to her Servants, or to any of her intimate Acquaintance, which in all Probability ſhe wou'd have done, had ſhe had a Son then living; and therefore we may very reaſonably conclude that ſhe had no Son at all. Theſe are the ſeveral Facts we ſhall lay before the Court and the Jury; and I don't in the leaſt doubt, but that after we have gone through our Evidence, the Jury will find a Verdict for the Defendant.

Mr. Primier Serjeant Malone, *likewiſe of Council for the Defendant.*

My Lords, and you Gentlemen of the Jury; the Defendant in this Action, to be ſure, labours under a very great Difficulty, namely, the proving a Negative, the Affirmative of which, as is ſuppos'd by the Gentlemen of the Council of the other Side the Queſtion, has been poſitively ſworn to by ſeveral Witneſſes produced on Behalf of the Plaintiff. They have ſworn, my Lords, that Lady *Altham* had a Son; that this Son was educated, and for ſeveral Years regarded as Lord *Altham*'s Child; and that Mr. *Anneſley*, the Leſſor of the Plaintiff, is that very identical Son, and therefore has a Right to the Eſtate in Queſtion. But how inconſiſtent with Truth and the Nature of Things; how improbable; how unlikely the Facts related in this Story are, I think Mr. Attorney has already ſhewn from unanſwerable Arguments. But how improbable ſoever we may repreſent this Matter, ſay the Gentlemen on the other Side, yet as the Facts alledged have been prov'd by the Oaths of Witneſſes whoſe Credit we cannot impeach, their Teſtimony muſt ſtand good againſt all Probability, and all Evidence to the contrary, tho' given upon Oath.

But, my Lords, if we should not only prove the Improbability of the Facts given in Evidence, but likewise shew Contradictions and Inconsistencies in that Evidence; and should, after all, as I am perswaded we shall, be able to contradict and disprove every Thing that has been sworn to in Behalf of the Lessor of the Plaintiff, by the Testimony of at least as credible Witnesses as have appear'd for the Plaintiff; I say, if this should be made out to the Satisfaction of the Court, as I doubt not but it will, I hope Justice will take Place, and a Verdict pass for the Defendant.

My Lords, the Council on the other Side have examined a great Number of Witnesses in Behalf of the Lessor of the Plaintiff; and it wou'd take up too much of the Court's Time, to examine the Improbabilities, the Inconsistencies, and the Contradictions that plainly appear in the Evidence of almost every Witness that has been sworn. I shall therefore only make some general and cursory Remarks on such Parts thereof as appear the most glaring and barefac'd; and then shall call our own Witnesses to confront those of the Lessor of the Plaintiff, to invalidate their Testimony, and then give a more rational and natural Account of the whole Affair than has yet been given.

The first Witness I shall take any Notice of, tho' the second called, is *Henrietta Coles*, who sweats that she saw Lady *Altham* with Child at *Dunmain*, but miscarried with a Fright she took at my Lord's breaking some China Saucers. Being cross-examin'd, says, she can't remember any of the Servants; yet presently after owns that she saw *Ralph* the Butler in waiting; and in her Evidence mentions *Mary Heath*, my Lady's Woman. Here then is a palpable Contradiction. Having sworn that she saw the Abortion in a Bason, was ask'd, how being so young she knew it to be an Abortion? Her Answer was, Her Mother told her so. This therefore is only Hearsay, and ought not to be regarded either by your Lordships or the Jury. The Occasion likewise of this Miscarriage, as told by this Witness, is pretty extraordinary; that is, that her Ladyship took a Fright at

at my Lord's breaking some old China Saucers which he had before order'd not to be brought upon the Table, and which he had before he was married; and that thereupon her Ladyship fell into a Fit of Tears. Now, had my Lady bought these Saucers herself, or had my Lord made her a Present of them before Marriage, this wilful Destruction of them might indeed have set her a crying, and, in truth, have almost broke her Heart, if she had been as fond of them as the Generality of that Sex are of that fine brittle Ware. But nothing like it: The Witness says, they were some old odd Things that his Lordship had by him, and, it seems, were only valued for their Antiquity. And it don't appear that they were valued by any Body but his Lordship: And if his Lordship had a mind to break and destroy them, I don't see any Reason why my Lady should lay it to Heart. In this Evidence therefore manifestly appears, first a Contradiction, and then an Inconsistency. But I proceed to the next.

The next Witness I shall take Notice of, is *Alice Bates*, who sweats, that in *November* 1714, Lady *Altham* was with Child; mentions a Saying of my Lord *Altham*'s upon that Occasion; that she wish'd Lady *Altham* Joy of it, who thank'd her in Presence of my Lord; that she saw my Lady two or three Times after, and spoke to her of it. This is a home Thrust, and may seem to require some Skill to parry a Blow so well aim'd: But if your Lordships will please to recollect the Answers that she gave upon being cross-examin'd, I believe you will be of Opinion, that her Testimony is of no Weight, and so I hope it will be regarded by the Jury. For, being ask'd, upon cross-examining how she came to know Lady *Altham* was with Child, only says, she was told so in the Family.

The next Witness, *Catherine M'Cormick*, was called to prove that Lady *Altham* miscarried a second Time: But how does she prove it? Why, that my Lord one Evening having Words with my Lady's Woman, Mrs. *Heath*, made a great Noise; upon which my Lady was frightned and screamed out; and that Mrs. *Heath* then told

told my Lord that my Lady had miſcarried, or was going to miſcarry. A ſhrewd Woman I warrant, was this Mrs. *Heath*, who could not be poſitive whether her Lady had miſcarried, or was going to do it: But perhaps ſhe was frightned as much as my Lady, for, it ſeems my Lord threw a Stool at her; and in Revenge for the Affront, I ſuppoſe, ſhe thought to have frighten'd my Lord too, by telling him that my Lady had miſcarried. But as moſt of this Witneſs's Evidence is built upon what ſhe heard from Mrs. *Heath*, and as Evidence upon Hearſay is not allow'd to be valid in Law, I preſume your Lordſhips and the Jury will have but little Regard to what ſhe has ſaid.

John Turner, another Witneſs, ſays he lived at *Dunmain* ten Years, and was Steward to the Lord *Angleſey*, and viſited Lord *Altham*; that Lady *Altham* told him ſhe had a Son, and that he ſaw the Boy ſeveral Times afterwards, and had him in his Arms; and that ſome Years after he ſaw him in a very poor Condition. Being croſs-examin'd, he was aſk'd where my Lord lived at that Time he ſaw the Child in that poor Condition? ſaid, he did not know, but believed at *Inchicore*; and admits he did not enquire where he was, nor about the Child, having heard that the Child born at *Dunmain* was dead many Years before: Yet, being further interrogated, ſays that Lord *Altham* apply'd to him in 1723, to ſpeak to Lord *Angleſey* to help and maintain his Son; which Deponent did, and got 50 *l.* for that Purpoſe. A likely Thing truly! that a Nobleman, in the Poſſeſſion of a large Eſtate, ſhould deſire the charitable Aſſiſtance of others to maintain his own Child? And how conſiſtent is this Man with himſelf! Firſt, he ſcarce knows where my Lord lived when he ſaw his Child in that ragged Condition, nor made any Enquiry about Father or Son, yet preſently allows that Lord *Altham* apply'd to him on that very Occ ſion to procure his Son a Maintenance. Now, is it poſſible, is it credible, that Lord *Altham* ſhould make this Application to Deponent, and that the Deponent ſhould procure the Favour requeſted by his Lordſhip for his Child, and yet

not

not know where his Lordſhip lived at the Time, nor aſk any Queſtions about the Child, tho' it was for him only, and for his Maintenance and Support that he got 50 *l.* of Lord *Angleſey*. Being aſked if he knew any of Lord *Altham*'s Servants, he ſays, he does not remember any of them by Name, tho' it appears he was Steward to Earl *Arthur* and Earl *John*, and very intimate in Lord *Altham*'s Family, yet did not know the Nurſe, Cook, Chambermaid, or Butler. The poor Man has a bad Memory all of a ſudden; for juſt before he could give you a very particular and circumſtantial Account of my Lady's Great Belly, and ſeveral little and trifling Occurrences that happen'd in the Childhood of the Son, and yet now ſcarce knows any Body that belongs to the Family.

Dennis Redmond, another Witneſs depoſes that he was Servant to Lord and Lady *Altham*, after they came to *Dunmain*, was ſent for the Midwife at his Lady's Labour, and that the Child was afterwards put to Nurſe to one *Joan Landy*, who was delivered of a Son ſome Months before, ſuppoſed, and generally reported to be got by Lord *Altham*. Now, I cannot help being of my Lord Chief Baron's Opinion, that it looks ſomething odd, that Lady *Altham* ſhould ſend her Child to be nurſed by a Perſon ſuſpected to have a Child by her Ladyſhip's Huſband. That this Perſon, whom my Lady had turn'd out of her Service for being, as it was currently reported, a Whore to my Lord, and therefore had incurred her Ladyſhip's higheſt Diſpleaſure and Indignation againſt her; and yet, notwithſtanding all this, that her Ladyſhip ſhould pitch upon this very Woman to be the Wet-Nurſe to her Child, her only Son, and the Hopes of the Family, ſeems moſt incongruous to Reaſon, and can never paſs for current, except with thoſe whom Prejudice has blinded, or Intereſt ſway'd to take for granted ſuch palpable Abſurdities: For when once the Devil of Jealouſy has poſſeſs'd a Woman, nothing in Nature is ſo revengeful, nothing ſo furious, no hungry Savage purſues its Prey with greater Eagerneſs, or tares it when ſeiz'd with more Violence and Voraciouſneſs, than a jealous Woman treats the Object of her Diſquiet whenever in her

her Power: And that Lady *Altham* should tamely put up with such an Indignity offer'd to her Bed, and by one of her menial Servants too; that she should be so mean spirited as to suffer her Child to suck the Breasts of her Husband's Harlot: This, I say, exceeds Belief, nor can it appear credible to any rational thinking Man. If then this Part of this Man's Evidence deserves so little Credit, whatever he has said besides, I presume, will have but small Weight with the Jury.

Mrs. *Deborah Annesley* says, that Lord *Altham* was her Husband's Relation; that she has heard her Brother, Mr. *Paul*, drink my Lord's Son's Health, which she is sure he would not have done, had he believed the Child had been a Bastard. However, she is so ingenuous as to own, that she never visited my Lord's Family while they were at *Kinna*; nor does she say she ever saw the Child: and therefore her Testimony can be but of little Signification.

Christopher Brown, another Witness, depose, that he knew Lord *Altham* about 33 Years ago; and that at the Christening of the Child he waited at Table on his Master *Anthony Cliff*, Esq; who was invited to it, and din'd there that Day; and saw the Child afterwards at *Dunmain* in my Lady's Lap. Being cross-examined, says, that he dined along with the Servants, toasted several Healths, and was very merry. But being asked, what Servants were then present, he does not remember any of them, nor any one Health that was drank; yet can name five or six People that dined at Lord *Altham*'s Table; and but just before own'd, that *Taylor* and *Redmonds*, two of my Lord's Servants, dined with him at the Servants Table. Thus he goes backwards and forwards, say and unsay, without any Regard to Truth, or the Oath he has taken. But there is one Thing more I must observe to your Lordships upon *Brown*'s Evidence, and that is this: Being asked what sort of a Woman Lady *Altham* was, says, she was a tall slender Woman; believes she was taller than himself, tho' he never measured her; that she was thin in the Face, and he thought, handsome. Now, that Deponent never measured the Lady *Altham*, I verily believe; nor will I take

take upon me to ſay, that the Deſcription he has given of her Perſon is not juſt: But this I will venture to affirm, that the Picture he has drawn of her is very unlike that which has been exhibited by ſeveral of the other Witneſſes who ſpoke before him; and that is as much to our Purpoſe as if he had contradicted himſelf. For when a Number of Witneſſes are brought to prove the ſame Fact, if two or three of them vary in Relation to the main Point, I don't ſee how the Court and Jury can form a juſt and true Judgment upon the Caſe before them; and therefore, when it ſo happens, I think it is a general Rule to incline to the merciful Side, and give the Defendant the Advantage, if any there be. If your Lordſhips will pleaſe to look back to your Minutes, you will find, that *Alice Bates* being aſked of what Size Lady *Altham* was, anſwer'd, ſhe was a middle-ſiz'd Woman. *John Turner* being aſked the ſame Queſtion, ſays, ſhe was a luſty ſwarthy Woman. *Breen* ſays, ſhe was a tall Woman. The whole of this Deſcription taken together, will appear to be this: That Lady *Altham* was a middle-ſiz'd, luſty, ſwarthy, tall, ſlender, handſome Woman; and I will add, that if ſhe was all this, ſhe made, to be ſure, a moſt agreeable Figure. But I believe your Lordſhips and the Jury will ſave me the Trouble of making ſuch Reflections as very naturally occur upon this Occaſion.

Thomas Brooks, a Surgeon, was brought to prove, that he bleeded Lady *Altham* in her Labour: But how does he prove it? Why, he ſays he was ſent for to Lord *Altham*'s Houſe; then being come there, he was ſhewed up in a Room; that a Lady was there ſitting up in her Bed, ſeemingly very ill; that he was ordered to bleed her; which he did, and then retired, and ſoon after Mrs. *Shiels* came into the Room and ſaid, that the Lady was deliver'd of a Boy. But being aſk'd, whether it was uſual to bleed Women in Labour, ſays, he was not told that ſhe was in Labour, and that he did not ſee any Signs of Labour about her; nor did he know that Lady *Altham* was the Perſon whom he had bled. Now I would fain know what it is this Gentleman has prov'd?

Not that Lady *Altham* was in Labour; for he does not know whether the Perſon he let Blood was in Labour, or not; but was afterwards told that the Lady was brought to Bed; and he himſelf ſays, that he does not know that the Lady he bleeded was Lady *Altham*; but, in ſhort, that he bleeded ſome Body, but whom he cannot tell. So that Witneſs's Evidence amounts to juſt nothing at all.

James Welſh, another Witneſs, depoſes, that he knows that Lady *Altham* had a Child? But how does he know it? (For he owns, that he never ſaw the Child) why my Lady told him ſo: What he ſays therefore, does not proceed from his own knowledge; and I muſt ſubmit it to your Lordſhips and the Jury, whether what the Lady told him, ſhall paſs for ſufficient Proof in this Caſe.

James Cavenagh, being examin'd, ſaid, he was acquainted with Lord *Altham*, and was his Lordſhip's Neighbour; that his Lordſhip had a Child whom he acknowledg'd for his Son, and ſaid to Deponent, that if the Boy lived, he would one Day or other be Earl of *Angleſey*. Being croſs-examin'd, he owns, that he never heard who was the Child's Mother. So that this Child might be Lord *Altham*'s, and yet not the Son of his Lady, but begot on another Woman, and born in Baſtardy; and which we hope to prove is actually the Caſe of the Leſſor of the Plaintiff, who muſt therefore fail in this Action.

James Dempſy, in his Depoſition, ſays, that he was Tutor to old *Altham*'s Son; owns that he went to Maſs; but that his Lordſhip never examin'd him whether he was a Roman or Proteſtant, and believes my Lord did not know of what Religion he was. But who can believe him? If Lord *Altham* was a Proteſtant, as to be ſure he was, he knew very well what Difficulties and Hardſhips the Catholicks labour under in this Kingdom, and therefore muſt be ſuppoſed to take ſome Care that the Mind of his Child took not a wrong Biaſs in its Infancy; that he would have ſome Regard to his Education, and not careleſly commit him to the Tuition of one, who, for ought he knew, might have no Principles at all, or very bad

bad ones. I much queſtion, whether ſuch another Inſtance can be produced, of a Nobleman's appointing a Tutor for his Son, without firſt enquiring what Religion he was of, eſpecially if he has but one Child, and he the Heir apparent to his Eſtate. If a Man has no Religion at all himſelf, and lives without any ſeeming Regard either to God or Man, yet he is better pleas'd to ſee his Son take to virtuous Courſes, than that he ſhould abandon himſelf to all the Vices of the Age. A Man that is brought up in the Profeſſion of the Proteſtant Religion, tho' perhaps his Practice may diſcover but very little Conformity to the Principles of any Religion at all, yet as we Proteſtants have generally an Abhorrence of the Romiſh Perſuaſion, no Man who makes any Reflection can embrace Popery, or ſuffer his Children, if he can prevent it, to be inſtructed in the Principles, or join with that Communion. Therefore it is highly improbable, that Lord *Altham* ſhould never examine his Child's Tutor about his Religion; and conſequently, that the Evidence that this Witneſs has given is at beſt but very dubious.

Catharine Neale depoſes, that ſhe was hired as a Servant by Lord *Altham* to take Care of his Son, whoſe Name was *James*, and that the Child was ſupported and kept as a Lord's Son, and his Birthnight celebrated with Rejoicings and Bonfires. Says, that afterwards the Boy came to her in a poor Dreſs, and deſired her to go to Lord *Altham* to get him ſomething for his Relief; that upon telling his Lordſhip in what Condition his Son was, he anſwer'd, that he paid for his Diet and Lodging at Mrs. *Cooper*'s in *Ship-ſtreet*, who had complained of him, and till he grew better he would do nothing for him. To this the Witneſs replies, that all this was a Contrivance of Miſs *Gregory*'s; and that thereupon his Lordſhip own'd that there could be no Peace in the Houſe, for that Miſs *Gregory* did not like the Child, and therefore he was ſent abroad. A likely Story! That his Lordſhip ſhould turn his only Son and Heir out of Doors, meerly becauſe his Harlot did not like him. According to this Witneſs's Account of my Lord *Altham*, his Lord-

ſhip muſt be either a very weak, or a very wicked Man, or both. Firſt, he tells the Witneſs by way of Excuſe for his barbarous Treatment of the Child, that Mrs. *Cooper* had complained of him: But what was the Subject of this Complaint? That does not appear; and it ſeems as if it was frivolous, or that there was none at all; becauſe on the Witneſs's ſaying, that this was owing to the Contrivance of Miſs *Gregory*, his Lordſhip preſently own'd, that it was ſo. What a ſhocking Account is this of Lord *Altham*! That his Lordſhip ſhould, as it were, ſtudy for Excuſes for the ill Treatment of his Son! And at laſt own'd that he had ſacrificed him to his Miſtreſs; that he had turn'd him out to Beggary, and ſuffer'd him to want Food and Raiment, and the common Comforts and Neceſſaries of Life; and for what Crime? For none that has yet been alledg'd, but only becauſe Miſs *Gregory* would have it ſo. But theſe are Inconſiſtencies too groſs to be digeſted by Men of Senſe, and I dare ſay will have their due Weight with your Lordſhips and the Jury.

The Evidence given by *John Byrne*, Brewer, amounts to no more than this; that he had ſeen the late Lord *Altham*, but was not intimately acquainted with him; that he knew none of his Lordſhip's Family, except a Miſs that he kept, and a little Boy, who was ſaid to be his Lordſhip's Son, and believes that the Perſon whom he then ſaw a Boy, is Mr. *Anneſley* now in Court, from his Phyſiognomy and Features: This is proving nothing, unleſs he could ſhew, from more probable Circumſtances than he has yet given, that the Boy he ſaw, was really the Son of the Lord and Lady *Altham*, or ſo acknowledg'd by them. And as to the Similitude of Features which he believes or fancies he ſees in Mr. *Anneſley*'s Face, correſpondent to what he ſaw in him when a Boy, I think but little can be made out of that; when we conſider the great Alteration which twenty Years will make in the human Face, eſpecially in Youth, between the Age of eight, and twenty eight; as in the preſent Caſe, where the Boy was about eight Years old when he firſt ſaw him, and has not ſeen him ſince, till his

his late Return from abroad. So that I don't apprehend, that Mr. *Byrne*'s Testimony can in the least affect this Cause.

Charity Blake, swears, that she knew Lady *Altham*, but never heard her say she was with Child, tho' often in Company with her Ladyship. That indeed she had heard from common Report, that her Ladyship had a Child, but whether Male or Female, this Deponent knows not. This Witness, therefore, instead of making out any Thing for the Plaintiff, makes directly against him. For she says, she knew Lady *Altham*, and was often in her Company; yet never heard a Syllable of her being with Child, which undoubtedly she must have done, if it had been so; but afterwards heard from common Report (which was always known to be a common Liar) that her Ladyship had a Child; and it seems this Witness gave so little Heed to it, as being persuaded there was no Ground for it, that she did not so much as enquire whether it was a Boy or a Girl. And therefore, if your Lordships will give any Credit to this Witness, it must be, that Lady *Altham* never had any Child at all.

Margaret Hodgers swears, she knew Lord and Lady *Altham*, having once seen her Ladyship at Mr. *King*'s the Apothecary in *Charles-Street*, in the Year 1723; that Lady *Altham* being ill, she waited on her Ladyship about some Business, as she there mentions, and found her sitting, and in a weak Condition. Being cross-examined, says, she does not know whether the Gentlewoman she had the Discourse with at Mr. *King*'s was Lady *Altham* or no, but what she heard and was told by the Maid. And who knows but the Maid might tell her a Lie? And if she did, then what the Witness further says, that Lady *Altham* told her she had a Son, stands for nothing. And besides, my Lords, in the first Part of her Evidence, she expressly swears she knew Lord and Lady *Altham*; and yet afterwards she as expressly swears she never saw Lady *Altham* but once, and that was that Time at Mr. *King*'s, and never tells you, or so much as mentions, any Time or Place she ever saw Lord *Altham*. This Evidence I really think is so incoherent,

if

if no worſe Conſtruction be put on it, that all ſhe has ſworn will not, I hope, and indeed I think ought not, to have any Credit with the Court and the Jury.

Thomas Byrne, Brewar, on his Examination, ſays, that when Lord *Altham* lived in *Proper-Lane*, he had a Boy who was reputed to be his Lordſhip's Son, with whom he often play'd, and was very intimate; but never ſaw Lord *Altham* and the Boy together but once; that the Boy came to the Witneſs ſome Time after, and told him, that he had been ill uſed where he was put, and would ſtay there no longer. Upon which the Witneſs deſired him to go to *Inchicore* to his Father Lord *Altham*, which the Boy refuſed, becauſe Miſs *Gregory* would never let him alone. Upon which the Witneſs perſuaded the Boy to ſtay with him, which he did for five or ſix Weeks; and that Lord *Altham*, nor any of his Family, took any Care of him. Upon the Face of this Evidence, I muſt obſerve, that very little appears in it to the Advantage of the Plaintiff. He ſays, here was a Boy that lived at Lord *Altham*'s, who was reputed to be his Son, and that he called his Lordſhip Father; which he might do, and yet his Lordſhip not be his Father; or, if he was his Father, yet does not ſhew that Lady *Altham* was his Mother; which is the moſt material Thing for them to prove: For if this Boy was only the Son of Lord, and not of Lady *Altham*, he cannot inherit, and this Action muſt fall of Courſe. And that he was not the Son of Lady *Altham*, appears pretty plain out of the Mouth of this very Witneſs. For, being croſs-examined, he ſays, the Boy never talk'd to this Witneſs about his Mother at all, nor ever ſaid who ſhe was. Now, can it be ſuppoſed, that in five or ſix Weeks intimate Converſation together, while the Boy continued with this Witneſs at Bed and Board, and while continually complaining of the Unkindneſs of his Father, and the Cruelty of his Father's Miſtreſs, that ſhe ſhould never mention his Mother, if he knew who ſhe was? What is more natural for Children, when cruelly uſed by a Father, than to wiſh that their Mother was living to protect them from thoſe Barbaritics? Not a Word of this;

and

and yet ſeveral of the Witneſſes tell you, that the Lady *Altham* expreſſed the moſt tender Affection for her Child, but the Child, tho' now grown up to ſeven or eight Years of Age, never once thinks about his Mother; which is a ſtrong Argument with me, that tho' poſſibly Lord *Altham* might be the Father of this Boy, yet Lady *Altham* was not his Mother.

Martin Plunkett ſwears, that he knew Lord *Altham*, and often ſaw and knew his Son; and that this Witneſs now and then got Pardon from his Lordſhip for his Son, when Miſs *Gregory* had complained of him; that being introduced into Mr. *Anneſley*'s Company ſince his Return to *Ireland*, and tho' ſeveral other Perſons were then preſent, he knew him from all the reſt, and ſwore he was the Perſon whom he had formerly known to be Lord *Altham*'s Son. Being aſk'd, by what Signs or Tokens he knew him to be the ſame Perſon, reply'd, from the melancholy Poſture he uſed to ſee Mr. *Anneſley* in, when Miſs *Gregory* complained of him. What a wonderful Sagacity is this Man bleſſed with! To be ſure he muſt keep ſome Familiar, ſome inviſible *Pacolet*, that, after twenty Years Abſence, could, at firſt ſight, point out to him thoſe imperceptible Traces of Grief in Mr. *Anneſley*'s Face, which the ill Uſage of Miſs *Gregory*, had ſo long ſince imprinted upon it. I won't take upon me to ſay that this Witneſs has given falſe Evidence; but this I may venture fairly to affirm, that what he has ſworn, is in the very Nature of it ſo incredible, that neither the Court nor the Jury believe a Tittle of it. If Nature had left in his Face ſome particular Mark, Scar, Mole, or Blemiſh, or had fix'd on his Perſon ſome other ſignificant Sign or Token, that Time cou'd not have worn out, which this Witneſs had remember'd, ſome Regard might have been due to what he has advanced. But when he comes and tells us, that all the Remembrance he has of him, is from the melancholy Poſture he has ſeen him in when Miſs *Gregory* huff'd him, who can think that he ſpeaks ſeriouſly? What! is Mr. *Anneſley* ſtill in the Pouts? Does he ſtill look as if he was under the Rod? Does he imagine that Mr. *Anneſley* ſtill fancies Miſs *Gregory* a Scold-

ing

ing at him? Fie, fie, Gentlemen, bring better Evidence than this, or you will find you have taken up the Time of the Court to no Manner of Purpoſe.

Dominick Farrell ſwears, that he knew the Lord and Lady *Altham*; that he often ſaw their Son, whom once he had in his Arms when about half a Year old; that ſome Time afterwards, Maſter *Anneſley* came to the Deponent in a poor Condition, and that Deponent kept him in his Houſe for ſome Time; but his Wife growing uneaſy at his keeping a Boy that was none of his own, he delivered him into the Care of one *Purcell* a Butcher, telling him the Child was Lord *Altham's* Son; *Purcell*, who is the next Witneſs call'd, upon *Farrel*'s Recommendation, takes him Home, and preſents him to his Wife, who nurſes him up as if he had been her own. That afterwards *Richard Anneſley*, the Defendant in this Action, came to *Purcell*'s Houſe, and enquired if a Boy was not there whoſe Name was *James Anneſley*; being told there was, and the Boy appearing, he aſk'd the Child, how he did, and if he did not know him? The Child trembling and affrighted, as he ſwears, ſaid he was his Uncle; and that the Defendant further ſaid that the Child was the Son of Lord *Altham*. The Deponent, *Purcell*, gives a further Account, how, after the Death of Lord *Altham*, the Defendant made a foul and baſe Attempt to take the Boy from him by Violence, but that he ſcreen'd him from his Violence, and would not ſuffer him to be taken away. This is the Subſtance of the Evidence given by theſe two Witneſſes, *Farrell* and *Purcell*. Upon which give me Leave to obſerve, how inconſiſtent with Reaſon, and the Nature of Things, their ſeveral Depoſitions are. Is it not ſomething extraordinary, that at a Time when, it is confeſſed by *Farrell*, that Lord *Altham* owed him a conſiderable Sum of Money, that *Farrell* ſhould ſuccour and relieve a Boy whom his Lordſhip had turn'd out of Doors? Was he not afraid he ſhou'd provoke his Lordſhip's Reſentment ſo far as to keep him for ever out of his Money? Did he know what Cauſe my Lord had to baniſh the Boy from him? He does not ſay that he did; and therefore he might as well ſuppoſe that the Boy was

treated

treated according to his Deserts, as that he was cruelly us'd; and consequently, that his superabundant Charity might be ill-placed; of which Opinion his Wife certainly was, who would not suffer him to keep the Child but a very little while.

As to *Purcell*, who took the Boy upon *Farrell*'s Recommendation, he seems to have overflowed with Charity; for, upon *Farrell*'s shewing him a ragged, tatter'd, mean-looking Boy, and telling him that that was Lord *Altham*'s Son, he, upon *Farrell*'s bare Report, that the Boy's Father had banish'd him from his House, merely to humour a Mistress he kept, brings him to his own Home, new cloaths him, and takes as much Care of him as if he had been his own. But would not a Man of Reason and Understanding, before he had done such an Act as this, have argued with himself in this Manner? My Lord, I find, at the Instigation of his Mistress, has turn'd this Boy out of Doors; if I take him in and relieve him, shall I not thereby incur his Lordship's Displeasure? If I should be so unfortunate, and his Lordship should prosecute me for it, can I stand against him? No, inevitable Ruin must be my Portion. Why then should I run such an apparent Hazard, without any Prospect, except a very distant one, of any Advantage to myself? No, let me sleep in a whole Skin while I may. Thus any thinking Man would have reason'd. That he had some Apprehensions of this kind, seems pretty clear from his own Confession: For, being asked why he did not go and acquaint my Lord with the Affair, his Answer was, that his Lordship was a passionate Man, and would not value shooting him through the Head; and yet, notwithstanding all this, he resolves to keep the Boy. If your Lordship and the Jury can believe what this Man says, you must believe him to be the most infatuated that ever Man was. But I must rest it on your Lordships Judgments, whether you are not of a contrary Opinion, and are persuaded, as I am, that this whole Scene of Action, as it has been laid before you in their Examinations, has been concerted and wrought up between these two Witnesses, *Farrell* and *Purcell*, on purpose to serve the present Occasion. If your Lordships and the Jury are of that

Opinion, you will lay but little Streſs upon what *Purcell* further ſays, in Relation to the Defendant's coming with Conſtables and Ruffians to take the Boy from him by Force and Arms, in order to make away with him, or do him ſome Miſchief. An Attempt ſo monſtrous in itſelf, ſuch an open Defiance of the Laws of the Realm, that your Lordſhips will ſcarcely think a Man in his Senſes cou'd be capable of: But that the Defendant ſhould be guilty of ſo foul an Action; that he ſhould make an Aſſault upon the Life or Peace of an innocent Lad, who, the Deponent himſelf ſays, the Defendant own'd to be his Brother's Child: This, I ſay, exceeds all Belief, and therefore, I preſume cannot, nay will not be credited by your Lordſhips or the Jury.

Shellcroſs Aſh, an Attorney, being ſworn and examin'd, ſays, that upon the Death of Lord *Altham*, the Defendant (the preſent Earl of *Angleſey*) ſent to Mr. *Hawkins*, King at Arms, to get himſelf enroll'd Baron of *Altham*; which Mr. *Hawkins* refus'd to do, becauſe the late Lord *Altham* had left a Son, who had made a great Noiſe at his Funeral, telling every Body that he was the Son of the late Lord *Altham*: Upon hearing which my Lord was angry, and declared that the Boy was a Vagabond and an Impoſtor. However, Mr. *Hawkins* was ſoon ſatisfied of the Defendant's Right to the Title and Eſtate of the late Lord *Altham*, becauſe he ſoon after took his Seat. That the Earl of *Angleſey*, the Defendant, might very juſtly be provok'd with the Boy's calling himſelf the Lord *Altham*'s Son, no Body will gainſay, that attends to the Depoſition which this Witneſs, on his Croſs-Examination, makes; *viz.* that he never heard of this Boy 'till after the Death of Lord *Altham*; that the Deponent has dined with Lord *Altham*, and never heard him ſay he had a Son, or who was to inherit his Eſtate; and never heard any Perſon reputed to be his Heir but Defendant: Which is the more ſurpriſing, becauſe, as he was the Defendant's Attorney, he had an Opportunity to acquaint himſelf with the Affairs of the Family; and muſt have heard ſome Talk of a Son, if my Lord *Altham* had had one.

Mark Byrne, the Conſtable, ſays he was one of thoſe who

who took up the Boy, and carried him on Shipboard, in order to be tranſported. That he and one *Donnelly* went to one *Jones*'s Houſe in *Ormond-Market*; that they found the preſent Earl of *Angleſey* there, and likewiſe a ſmall Boy, who my Lord ſaid was his Brother's Son; that my Lord charged the Boy with ſtealing a Silver Spoon, and that he was a Thief, and deſired the Deponent and the ſaid *Donnelly*, and others there preſent, to take him away to *George*'s *Quay*; that accordingly they took the Boy away, put him into a Coach, and drove him down to *George*'s *Quay*, where they put the Boy in a Boat, and my Lord went in with him; and then the Deponent returned Home. Being aſked if *John Purcell* was at *Jones*'s that Day, ſays, he did not ſee him there. Now, with your Lordſhip's Leave, we will turn back to the Evidence which *Purcell* gave on his Examination, and ſee how that agrees with the Teſtimony given by this honeſt Conſtable, Mr. *Byrne*. *Purcell* ſwears, that Defendant having ſent for the Child to *Jones*'s Houſe, he, *Purcell*, took the Boy in one Hand, and a Cudgel in the other, and went with him to *Jones*'s, where he ſaw the Defendant with a Conſtable, and two or three odd-looking Fellows, about the Door; that the Defendant, upon ſeeing the Boy, bid the Conſtable take him away, but that Deponent would not ſuffer it, but threatned to knock out the Brains of any one that ſhould touch him; upon which the Conſtable and his Aſſiſtants went off, and he took away the Child in his Hand, and carried him Home. That the Child continued with him two Months after that, and went from him to one Mr. *Tigh*'s. Here *Byrne* ſwears, that he and another Conſtable, with Aſſiſtants, took the Boy away out of *Jones*'s Houſe; *Purcell* ſwears, that he brought the Child home again in Defiance of them all. *Byrne* ſwears, that *Purcell* was not at *Jones*'s, *Purcell* ſwears, that he carried the Child thither, protected him there, and brought him away again in his Hand; and that the Boy continued with him two Months after that; and you will find by Mr. *Tigh*'s Evidence, that the Boy was in his Service, and wore his Livery for ſome conſiderable Time, and was ſpirited away from him, but in what Manner he

knows not. Now, my Lords, which of theſe Witneſſes will you believe? One of them muſt ſwear falſely; for they poſitively contradict one another. And therefore, I preſume, your Lordſhips nor the Jury will believe either of them.

The next Step the Council for the Plaintiff take, is to prove that the Boy, *James Anneſley*, was actually ſent abroad on board a Ship at the Time he was taken away by Force. For this purpoſe they have call'd *George Babe*, Eſq; Clerk of the Ship-Entries at the Cuſtom-houſe, *Dublin*, who produced a Book of Ship-Entries in the Year 1728. That he finds an Entry made therein of the 18th of *April*, 1728, that a Ship called the *James* of *Dublin*, *Thomas Hendry* Maſter, entred outwards for *Virol* and *Philadelphia*, and Owners of the Goods were *James Stephenſon*, *William Clancy*, and *Benjamin Glegg*. *Stephenſon*, it ſeems, is dead; but to prove that *James Anneſley* was entred in his Accounts, at that Time, they have produced one Mr. *Cromey*, who was Clerk to *Stephenſon* in 1728, who ſwears that his Maſter traded to the *Weſt-Indies* with Servants among other Goods, and that the Deponent found in his Maſter's Book an Entry of *April* 30*th* 1728, of ſeveral Servants on board the Ship *James* that went over the Bar that Day; and among the reſt, reads *James Anneſley*. In the Courſe of this Evidence they ſeem to have prov'd too much, that is, too much for their purpoſe, and much more than they intended to prove. For they have prov'd that all which the Defendant did in this Affair, was regular; he took no clandeſtine Methods to ſpirit away the Boy, made Uſe of no baſe Means to kidnap him, as has been maliciouſly inſinuated. We find that the Boy was regularly indented as a Servant; that before any Perſon is ſent abroad as a Servant, he muſt be carried before the Lord Mayor, and be examined, and if under Age, he is aſk'd who are his Parents; that they who go as Apprentices the Merchant indents for them at the *Tholſel*; that this Boy was really entred in the *Tholſel* Book, by the Name of *James Henneſley*, as one of the Perſons indented that Day, and bound for ſeven Years. Now what can be more fair and

juſt

juſt than this Proceeding? What has the Defendant done to the Breach of Juſtice, or Infringement of the Laws? He only took up an idle vagabond Boy, bound him Apprentice to a Maſter, and ſent him abroad in a good Service; and perhaps prevented his coming to the Gallows if he had ſtaid at Home; and ſo inſtead of being guilty of any Barbarity to the Boy, has really done him a Piece of Service.

My Lords, I muſt confeſs that I have taken up a great deal of the Court's Time, in making Remarks upon the Evidence that has been given on the Part of the Plaintiff; and yet I have omitted making any Obſervations upon what was ſworn to by ſeveral other Witneſſes, whom I have not ſo much as mentioned: For I perceived that they were ſo well inſtructed, and ſwore ſo roundly and poſitively to the Facts they were to prove, that there was no poſſible Way to invalidate their Evidence, but by confronting them with Witneſſes of a ſuperior Character; or elſe that their Evidence was ſo trifling, and ſo little to the Purpoſe, as not to deſerve any Notice at all. But by what I have already ſaid, and the Contradictions and Inconſiſtencies that I have pointed out in the Evidence that has been given for the Plaintiff, very little Credit ought to be given to any Thing that has been ſworn to. I think too it appears very evident, that the Earl of *Angleſey*, the Defendant, has acted nothing but what was fair and honourable, in regard to the Leſſor of the Plaintiff. And by that Time we have gone through the Evidence we have to produce in Behalf of the Defendant, I doubt not but the Court and the Jury will be unanimous in Opinion, that there is no Foundation for this Action, and of Courſe give a Verdict for the Defendant. I ſhall take up no more of your Lordſhip's Time, but call our Witneſſes.

Witneſſes for the Defendant.

First Witneſs. *Nicholas Loftus*, Eſq; Sworn.

Council for the Defendant. PRAY, Sir, give an Account to the Court and the Jury, what you know of the late Lord and Lady *Altham*.

Nicholas

Nicholas Loftus, Esq; says, he lived at *Loftus Hall* in the County of *Wexford* between 35 and 36 Years, and knows *Dunmain*, which is distant a little more than eight Miles from his House; and that he heard that Lord and Lady *Altham* lived there.

Council for the Defendant. During the Time that you lived in that Part of the Country, did you ever hear that Lady *Altham* was with Child?

Witness. I never did hear any such Thing.

Council for Defendant. If her Ladyship had been with Child, and you a Gentleman who was so near a Neighbour, is it not morally impossible but you must have heard it talk'd among the Gentlemen and Ladies of the Country?

Witness. I cannot say, I ever heard any such Report. I never heard of her Ladyship's being with Child, or of any Rejoicings made for her Delivery——I never visited either Lord or Lady *Altham*, for I had no Acquaintance in the Family.

The Council for the Defendant then asked Mr. *Loftus*, if he was not acquainted with Mr. *Thomas Barnes*, Alderman of *Kilkenny*; and whether the said Mr. *Barnes* had not been observed for some Time past, greatly to lose his Memory.

To this the Evidence reply'd, That he knows Mr. Alderman *Barnes* of *Kilkenny* very well, and that he was at his House last Summer, and believes he is greatly impaired in his Health, and is not of sound Memory.

The Witness was then ask'd by the Defendant's Council, if he believes that Alderman *Barnes* is capable of giving Evidence in a Cause of this Kind, the Particulars of which relate to Transactions that happened so many Years ago.——Reply'd, That he could not give any Account of that.

Council for the Plaintiff. My Lords, we object to the Questions proposed by the Defendant's Council to the Witness, concerning the Understanding or his Notions of Alderman *Barnes*'s Memory. My Lords, Alderman *Barnes* was on the Table, he was examined, the Defendant Council's cross examined him. The Court and the Jury are proper Judges of the Testimony he gave, and of his Understanding and Memory.

Council

Council for the Defendant. Pray, Sir, what Eſtate has the Earl of *Angleſey* in the the County of *Wexford*.

Mr. *Loftus.* I think his Eſtate in that County is upwards of 4000 *l.* per *Annum*.

Council for the Defendant. I wiſh, Sir, you would acquaint their Lordſhips and the Jury upon what Terms *Arthur* late Earl of *Angleſey* was, in the Year 1715; and if you can recollect yourſelf, where you ſpent your Life in that Year.

Mr. *Loftus.* I had ſo ſmall Acquaintance with the late Earl, that I can give no Account of what Terms he was in. I knew nothing of his Circumſtances, and cannot ſay any Thing to that Point. I was at my own Houſe at *Loftus-Hall* in 1715, to the beſt of my Knowledge. —— I remember I ſaw a Lady called Lady *Altham* at *Roſs* that Year, but I cannot ſay I ſpoke to her, but it was known, and generally believed, ſhe was my Lord *Altham*'s Lady.

Croſs-Examined.

Council for the Plaintiff. This Witneſs, my Lords, makes but little for the Defendant;—however, we will aſk him a Queſtion or two.——If you pleaſe, Mr. *Loftus*, I would aſk you, where you was in the Years 1713, 1714 and 1715. If you can charge your Memory with any Occurrences of thoſe Years relating either to the Leſſor of the Plaintiff or the Defendant, we ſhould be obliged to you, if you would relate them to my Lords and the Jury.

Mr. *Loftus.* I know nothing, but by Hearſay, of what happen'd in 1713. I never expected to be called in Queſtion in this Affair, ſo that I took little Notice of any Tranſaction that happened relating to the Point now in Queſtion——The Beginning of the Year 1713, the Lady *Beſborough* died, and ſoon after her Ladyſhip was interr'd, I went to Lord *Beſborough*'s, where I continued near two Years; and in the Year 1715, I went from his Lordſhip's Seat, to my own Houſe in the County of *Wexford*, where I continued the whole Year.

Second Witneſs. *Thomas Palliſer*, being ſworn to the

Voire

Fairfax, said, he has no Lease nor ever had one under the Defendant, nor does he get or lose by the Success of this Cause. —— And being sworn in Chief, and examined, said, that he knew *Arthur* late Lord *Altham* and his Lady, and that he knows *Dunmain*, and that he lives but two or three Miles from it, at a Place called the *Great Island*, and knew that Lord and Lady *Altham* resided at *Dunmain*, and was acquainted with them during the whole Time they were there. The Witness and they frequently visited one another; and said, he heard that *Joan Landy* had a Child by Lord *Altham*, and was satisfied in his Conscience that Lady *Altham* never had a Child whilst they lived in the Country of *Wexford*; said, he never knew her Ladyship to be sick all that Time, and visited her once a Fortnight and oftner, and never heard or saw her with Child, nor ever heard that she was confined to her Chamber on any Indisposition or Miscarriage, and if she had, he should have heard of it as soon or sooner than any Person in the Neighbourhood; said, he saw Lady *Altham* at Church, and did not observe her to be with Child; he farther said, he could not recollect how long since the Separation of her and my Lord was or when, but believed her Ladyship remained at *Ross* about two Years after, and that *Dunmain* is about three Miles from *Ross*; said, he never heard Lord or Lady *Altham* say any thing about their having or not having any Child, and that he is satisfied that Lady *Altham* never had a Child, for if she had, he and all the Country must have heard of it, and was never a Month together from seeing them or one of them; said, he was not two Months or six Weeks at a Time without seeing Lady *Altham* whilst he was at *Dunmain*; said, he never heard of any Child being there, nor was any Child ever shewn to him; he said, he knew a Woman there called *Joan Laffan*, and she was turned away for Whoring; and swore, that the said *Joan Laffan* was not to be believed on her Oath, and that his own Opinion of her, was, that she is not to be believed on her Oath, and all the Parish believes so of her.

Cross-

Croft Examined.

Said, he did not know where he lived in the Year 1713 or 1714, but that he lived backwards and forwards in the Barony of *Forth* and County of *Wexford*, and was building there, and believed he was not six Weeks at a Time from the Barony of *Forth*, that he kept his *Christmas* in the *Great Island* in the Year 1714, but knows not where Lord and Lady *Altham* was in that Month, nor could he recollect whether he saw them from the first of *September* to the first of *December* 1714; that it is eight Miles distant from the Barony of *Forth* to the House of *Dunmain*; that he kept only Seventy Acres of Land in his own Hands, and believed he did not stay in the Barony of *Forth* for a Month or six Weeks together, unless he had the Gout; that in the Year 1712 he purchased the Land in the Barony of *Forth*; and about Two Years after begun to build there, but could not take upon himself to say, whether he was Two Months together in the Barony of *Forth*; he said, there was a Dispute between Lord and Lady *Altham* at their Separation, wherein the Witness's Son was ill used; and could not be positive whether in the Months of *May*, *June*, or *July* 1715, he saw Lady *Altham*; said, he knew Captain *Briscoe*, but did not know or remember to have seen either his Wife or Daughters at *Dunmain*, they not living in that Country, but heard that it was Captain *Briscoe* that brought Lord and Lady *Altham* together on the Reconciliation, and took it that it was the said *Briscoe*, if he cou'd be sure of any thing that he did not see, that brought Lady *Altham* first down to *Dunmain*; and that the said *Briscoe* was his old Acquaintance at *Dundalk*, but did not see him at *Dunmain*.

Said, the Year of the Duke of *Ormond*'s first Sale of his Estate, that he went to live at the *Great Island*, and began to build there when Lord *Galway* was in the Government, and went that way his Lordship went, and that before then for a Year or two he lived in the County of *Kilkenny* under the Lord *Tyrone*, and that the Duke of *Bolton* was then in the Government; that, in the Year 1713, he lived in the *Great Island*; and that in the Year the Duke of *Ormond* was in the Government here, he made the above Purchase; said, Lord *Galway*

was twice in the Government here, the first was in King *William*'s Time, and the second about the Time he lost his Hand; said, he went to the Fort of *Duncannon* to wait on Lord *Galway*, who then saw Part of the House the Witness was building; and his Lordship said he would make him High-Sheriff of the County of *Wexford*; which he did. This was in King *William*'s Time, about Forty-three or Forty-four Years; believed he was about Three Years building the House, and believed that as soon as it was built he went to live in it.

Said, he could not tell when Lord and Lady *Altham* came to live at *Dunmain*, but that Lord *Altham* went to live there before her Ladyship; that he remember'd the Death of Queen *Anne*, and the Coming in of King *George* the First, but would not take upon himself to ascertain the Time when he first knew Lady *Altham*, whether it was a Year after the Death of Queen *Anne*, but that he knew them both during the Time they were at *Dunmain*, 'till the Time of their Separation, but did not know, whether he knew Lady *Altham* in the Year 1720, but believ'd, to the best of his Memory, his Acquaintance first began with her about Twenty six Years ago. Said, he was living at the *Great Island*, when Lord and Lady *Altham* came to *Dunmain*, and in some short Time after, he paid them a Visit;—which was about the Beginning of Summer, and that they lived there between Two or three Years, and believed that Lady *Altham* came up to Parliament with her Lord, but that they did not stay Four or Five Months; that he paid one Visit to Lady *Altham* in *Essex-Street*, but did not see his Lordship, but saw Lady *Altham* several Times before at *Dunmain*; said, he was then a Member of the House of Commons, and did not stay a Winter together in *Dublin* at Parliament, having made several Trips to the Country in that Time, but was not Three Months at a Time in *Dublin*, and could not be positive how long Lord and Lady *Altham* were at *Dunmain* before they went to *Dublin*;—said, Lady *Altham* might have kept her Room for a Week, but if she was a Week keeping her Bed, he should have heard of it; that he was intimate with all the Visitors that came to *Dunmain*; especially

cially with the Neighbours, and said, that if a Visitor had come there, and staid there a Month or two, he should have known or seen them, but did not remember to have seen the Daughters of Captain *Briscoe* there; said, he never heard nor was present when *Joan Laffan* was on her Oath, but heard she was examined as a Witness for the Plaintiff, and went over to *England* for that Purpose, and that he knows *Dennis Redmonds*, that he was a Servant in Lord *Altham*'s Family, and used to rub the Horses Heels, and saw him about that Time was Twelve Months, and believed not since; said, that he knew Mrs. *Piggott*, that she visited at Lord *Altham*'s, and that he saw her there; believed that Lady *Altham* could not have miscarried in two Years and a half but he must have heard of it; believed that he was in *Dublin* when the News came of the Rebellion being in *Scotland*, and saw Lord *Altham* at the House of Lords at that Time, and that he had then lost his Eye; that Colonel *Ponsonby* came into the Speaker's Chamber, and said, there was bad News, for that the Pretender had landed in *Scotland*, and said, his Acquaintance with Lord *Altham* was before that Time; said he could not tell the Month he came up to Parliament in that Year; but that he was present, and gave Consent to Mr. *Connolly*'s being chosen Speaker to the House of Commons, and believed he was in *Dublin* about a Week before, and saw the Speaker put in the Chair, and that he came then from the *Great Island*, and before then was backwards and forwards in the Barony of *Forth*; said, at the Time he saw *Redmonds*, *Redmonds* called at his House, and was then breaking a Horse for Lieutenant *Orfire*, that he asked *Redmonds* what he knew of the Affair going on between the Parties in this Cause, that *Redmonds* answered, all he knew was, that he was sent for a Midwife to *Ross*, that he brought her to *Dunmain* House, and dropp'd her at the Gate, and then put up his Horse, but for whom and on what Account he was sent or brought the Midwife, he knew not; that the Witness then told *Redmonds* that his going or not going to be a Witness in this Cause

would signify nothing, on which *Redmond* said he would not go; said, that Lord *Altham* lost his Eye at *Buschay*, but never saw his Lordship after at *Dunmain*.

It was Ten o'Clock at Night when this Witness had done his Examination. Then by Consent of the Parties the Court adjourned till the next Morning at Nine o'Clock.

The Sixth Day of the TRIAL.

Thursday, November 17, 1743.

THE Court having met according to Adjournment, and being sat, and the Jury called over, they severally appeared in the Jury Box, and being seated together.

Court. Gentlemen for the Defendant proceed with your Evidence.

Council for the Defendant. My Lords, we will call *William Wall*, Esq; a Member of Parliament, who was concerned as Attorney for *Arthur* late Lord *Altham*, who drew up the State of his Lordship's Case for Council's Opinion relative to his Lordship's Title to his Estate, and his Lordship's Declarations relative to the Plaintiff Mr. *Annesley* in this Cause.

Third Witness. *William Wall*, Esq; being sworn to the *Voire dire*, said, he had a Lease from *Arthur* Lord *Altham*, that the same was subsisting, but looks upon it as nothing; that the Lands demised in the Lease lies in the County of *Dublin*; that he gave Fifty Pounds Fine to *Arthur* Lord *Altham* for making him the Lease, in the Year 1724; that he never got Possession of the Land, his Lordship having no Title thereto, his Lordship's Ancestor having sold it before, the same being the Estate of Lord *Langford*; that he got a Promisory Note from

Lord

Lord *Altham* for the Fifty Pounds, and that the same is still due.

Court. This Witness has no Interest to be biass'd by.

Mr. *Wall* sworn in Chief, and being examined, said, he knew *Arthur* late Lord *Altham*, and his Lady, and that he was conversant with his Lordship in 1715 or 1716, and so continued to the Time of his Lordship's Death; but did not know her Ladyship till she came over to this Kingdom; that he was conversant as Attorney for his Lordship, and drew a State of a Case for his Lordship out of the Earl of *Anglesey*'s Will, and three Codicils in the Year 1725, and had Council's Opinion, as to Lord *Altham*, which was, that he could levy a Fine, and bar his Issue Male, but could not suffer a Recovery.

Council for the Plaintiff. My Lords, we object to this Witness any Thing relative to his drawing Cases, or of Council's Opinion.

Council for the Defendant. My Lords, we will examine Mr. *Wall* as to the Conversation he had with Lord *Altham* about the Plaintiff, and his Knowledge of Lady *Altham*, before we examine him as to Council's Opinion on the Case.

Mr. *Wall* then said, when Lady *Altham* came over, the Lord and Lady *Altham* lodged at Mr. *Vice*'s in *Essex-Street*, almost facing the House where the Witness then lived; that they went afterwards and lived at *Dunmain*, in the County of *Wexford*, and that the Witness was often there, and never heard that his Lordship had a Son, for if he had, the Witness should have heard of it; that his Lordship never told him, that he had a legitimate Son, but told him that he had an illegitimate one, and that his Lordship often wished that he had a legitimate Son; said, this Information was some short Time after the Year 1725; said, in the Year 1727 or 1728, he saw a Boy at *Ross* that was said to be Lord *Altham*'s Son; that he blamed his Lordship for not taking more Care of the Boy; that his Lordship made Answer, that he was doubtful whether that Child was his, for if he thought it was, he would take better Care of him; that he had that Child by *Joan Landy*, and that several others had

to

to do with her; said, the Boy was then in a mean Habit, and was facing the Inn of one *Breham*'s House in *Ross*; said, he knew *Arthur* Earl of *Angleſey*, and that Lord *Altham* and he had great Variance together, and that Law-ſuits were between them, and Bills in the Court of Chancery in this Kingdom; ſaid, he knew not what became of the Eſtate after the Death of Lord *Altham*; that his Lordſhip and his Brother, the preſent Earl of *Angleſey*, were ſometimes in, and ſometimes out, for that Lord *Altham* would have the Defendant join him in ſelling the Reverſion of the *Angleſey* Eſtate, and that the Defendant refuſed it for the whole, but ſometimes join'd in ſelling Part, that the Defendant might get ſome of the Money for himſelf; did not know what Age the Boy was of; ſaid, his Knowledge of Lady *Altham* was, to the beſt of his Memory, when ſhe lodged at *Vice*'s, but that he never viſited her there, and believed not above twice at *Dunmain* before they parted; that he ſaw her there, and then but at Dinner, having never lain at the Houſe, but lay at *Roſs*; ſaid, that he did not obſerve that ſhe was with Child, nor never heard that ſhe had a Child by her Lord during the Time they lived together; but heard ſhe had a Child by one *Segrave* in *Holland*, before ſhe came to *Ireland*; and heard, that that Child was dead, and that it died after that Lord and Lady *Altham* lived together: ſaid, his Lordſhip never told him the Motives that induced him to take with his Lady; and all that he heard was, that Lord *Altham* at the Time of his Death had no legitimate Iſſue; ſaid, he ſhould not know the Boy that he ſaw at *Roſs* again.

Croſs Examined.

He was aſked, by the Plaintiff's Council, as to the Converſation with the Lord *Altham*, about the Boy at *Roſs*; ſaid, that he never had any Diſcourſe with his Lordſhip but once about the Boy; and that in the Years 1724, 5, 6, 7, or 1728; but, in which of thoſe Years he could not remember, but believ'd the Diſcourſe at *Roſs* about the Boy was after his taking Council's Opinion; ſaid, that Matter was not of any Conſequence to him, and therefore did not take ſo much Notice of it, but believed that Lord *Altham* reſided at *Dunmain*, but whether her Ladyſhip was there he knew not, and believed the Boy was

about

about Six Years old; ſaid, he was every Year in *Roſs* from the Year 1707, whilſt he went the Circuit, unleſs when he was in *England*, to the Year 1720, and believed till the Year 1730; believed it was *Edward Breham*, who kept the Inn, that told him that the Boy was the natural Son of Lord *Altham*, and that it was in ſome ſhort Time after that he ſpoke to Lord *Altham* about him, but that it was not at any of the Times he made the Viſits at *Dunmain*; ſays, he remembers the preſent Acceſſion of his Majeſty in the Year 1727, but whether it was in that Year he had the Diſcourſe he could not remember, but that it was either in 1725, 6, or 1727; ſaid, he was not concerned for Lord *Altham* till his Lordſhip recovered the Eſtate againſt the Earl of *Angleſey*, and got Poſſeſſion, which was, to the beſt of his Remembrance, before the Year 1720; did not remember that he ſaw Lady *Altham* before he became concerned in Buſineſs for his Lordſhip, but believes it was before the Year 1720, and that he was concerned for his Lordſhip before and after he went to *Dunmain*; ſaid, that his Lordſhip was in very low Circumſtances at the Time of ſelling the Reverſion of the *Angleſey* Eſtate, and that if his Lordſhip had a Son he could have ſold the ſame for more Money.

Fourth Witneſs. *Aaron Lambert*, Eſq; ſworn to the *Voire dire*; —— ſaid, he was not Tenant, or is not, to any of the *Angleſey* Eſtate, or is he either to get or loſe. And being ſworn in Chief and examin'd ſaid, that he knew both the late Lord and Lady *Altham*; that in the Year 1711, Lord *Altham* took the Houſe of *Dunmain* of him, and in that Year went to live there, and that in two Years after her Ladyſhip went there and lived for two Years and a half, during which Time the Witneſs lived at *Roſs*; that on his Lordſhip's going to live at *Dunmain*, the Witneſs lent him 500 *l.* and his Plate; — that after Lady *Altham* went there, he viſited them moſtly every Week; the Witneſs conſtantly dunning the Lord *Altham*, his Lordſhip being in his Debt; that he never obſerved her Ladyſhip to be pregnant, and never heard ſhe had a Child, or ever ſaw any Child about the Houſe; ſaid, he knew *Joan Laffan*,

Laffan, for that he being ill he went from *Ross* to *Dunmain* for the Benefit of the Air, and Conveniency of a Surgeon, Mr. *Sutton*, who was there, who came over with Lord *Altham* from *England*; said, the Time he went to *Dunmain* was after Lord *Altham* went to *Dublin* to raise Money on the Reversion of the *Angleses* Estate, and that *Joan Laffan* attended the Witness whilst he was there; said, that Lord *Altham* let *Dunmain* House to one Mr. *Unack*, who went to live there, the *May* after his Lordship had quitted the same; said, one *Taylor*, *Joan Laffan*, and *Sutton* were in the House when Lord *Altham* left it, and that *Sutton* had broke Goal in the Mint, made his Escape, and came over with his Lordship; said he saw *Taylor*, *Sutton*, and Lord *Altham* at *Ross* together, and that after her Ladyship came over, *Sutton* was turned out of the House for drinking too much of Lord *Altham*'s Wine, and that he then went to live at *Ross*; said, that about two Months after *Sutton* was turned out of the House, and after her Ladyship went to live at *Dunmain*, *Sutton* was at Dinner with the Witness, when a Servant of Lord *Altham*'s came from *Dunmain* to *Sutton*, desired *Sutton* to go and attend her Ladyship; that *Sutton* went to the Door, and having returned told the Witness he would not go, and the next Day he was sent for, and he would not go, and the third Day the Chariot came for *Sutton*, and he went there, and stay'd a Fortnight; that *Sutton* told him the Reason he did not go, when sent for, was that he was piqued at being turned out, and wou'd not go; and said, Damn her, I will keep her in Punishment; said, he did not know a Place called *Farren*, nor of any Person that practised as a Surgeon of the Name of *Brooks*, but heard there was such a Family as the *Brookes* that lived at *Fookes*-Mill, but none at *Farren*; that Lord *Altham* left *Taylor*, *Sutton*, and *Joan Laffan* at *Dunmain* when he left it; that *Joan Laffan* attended the Witness for a Fortnight, and that she was both a Whore and Thief, and that No-body would believe her in his Opinion if she swore all the Oaths in the Universe; that she was an obscure Person in the Family; that he never saw any Child there, or her taking

Care

Care of any; ſaid, the Day of the Separation Lady *Altham* came to *Roſs* in a four wheel Carriage, and near duskiſh, and that there were with her the Coach-Man, her Ladyſhip and her Maid called Mrs. *Heath*;— that her Ladyſhip alighted at the Houſe of Captain *Butler* at *Roſs*; that the Witneſs did not viſit her there; — ſaid, that moſt of the People of the Town turned out to ſee her Ladyſhip come into Town, having heard of the Accident that happened about ten of the Clock in the Morning of the ſame Day; ſaid, a Year or two before Lord *Altham* went to live at *Dunmain*, one *Landy* came as a Cottier to live with the Witneſs, that he had two Daughters, one called *Joan*, but whether ſhe was afterwards a Servant at Lord *Altham*'s he knew not, but ſaw her about the Houſe; that the other Daughter went into the County of *Kildare* to work, and was married, and called by the Name of *Dunn*; — ſaid, Lord *Altham* and the Defendant the Earl of *Angleſey* were ſometimes like Brothers, and ſometimes like Enemies, and remembered that the Defendant came once to *Roſs* to the Witneſs and ſaid, *Damn that* Moll Sheffield, *ſhe can't agree with me on Account of my Principles*; ſaid, he never heard that Lord *Altham* had a Child, and the general Reputation of the Country was that his Lordſhip died without Iſſue, and believed he cou'd not have had a Child without his Knowledge; that his Lordſhip's Eſtate was in and about *Roſs*, and that *Taylor* received his Lordſhip's Rents.

Croſs Examined.

Being aſk'd how often he was at *Dunmain* while my Lord lived there; ſays, he might be a Month together without being at *Dunmain*, but is ſure he was never two Months away; ſays, he went into the Army, and married the Year Lady *Altham* came over. Being aſked if he never lived at *Waterford*; ſays, he did, at one Mr. *Jones*'s for three Months, but Deponent went every Fortnight or three Weeks to *Dunmain*. Being aſked how long he was in the Army; ſays, till about 16 Years ago; that he bought his Commiſſion the Year my Lord *Altham* came to *Dunmain*; that the firſt Year he was quartered at *Roſs*, and the next Year at *Dublin*;

Says, that when he had done his Duty, he had the Liberty of going where he pleased; says, the Officers used to do Duty for a Fortnight, and then go where they liked for a Month together; that he was afterwards quartered at *Mullingar*, where he staid but a Fortnight, and went to *Dunmain*. Being asked where he was quartered in 1715; says, he cannot be positive, but believes he might be on *Dublin* Duty in that Year; but says, he went to the Country several times, and never was three Months together at any Quarters without seeing *Dunmain*: Says he has been paid the greatest Part of his 500 *l.* which he lent my Lord *Altham*, but some Trifle still remains due. Being asked what Ailment Lady *Altham* had when *Sutton* went to visit her; says, he would tell what Ailment she had, if Leave was given him. Being asked if *Sutton* was an infirm Man; says, he believes he might be confined with the Gout about a Month at a time. Being asked if he remembers the Death of Queen *Anne*; says, he does; and that, at the time of her Death, he was in *Langston*'s Horse, and remembers the Regiment's going into Mourning. Being asked where they were quartered then; says, he believes they were quartered in *Dublin*; says, that Sickness has impair'd his Memory as to Time, but not as to Facts; says, the Defendant Lord *Anglesey* never sent Deponent any Venison as he did to other People, but yet, where an Affair of this Sort required his Attendance, Deponent would for the Sake of Justice, come to serve him, tho' he should be forced to come in a Horse-Litter. Being asked how many Places he may have been quartered in since the Year 1720; says, he believes he came from *Dublin* to *Mullingar* (in the County of *Westmeath*,) and from *Mullingar* to *Carrignashure*. Being asked if he ever saw *Paul Keating*, and had any, and what Discourse with him; says, he saw him within this Half Year, but that being told he was a Creature of some Body's that was setting up for the Earl of *Anglesey*'s Estate, Deponent had a bad Opinion of him, and therefore was aware of him; that Deponent met him one Day at a Billiard Table, when *Keating* endeavour'd to insinuate himself into Deponent's Acquaintance.

tance. Being aſked if he thought it was poſſible for Lady *Altham* to have a Child without his hearing of it; ſays, it was impoſſible almoſt for Lady *Altham* to have a Child without his knowing it, or at leaſt being told of it by the Tenants about *Dunmain*, whom he often ſaw. Being aſked if my Lord and Lady *Altham* were in *Dublin* during any one Seſſion of Parliament; ſays, he believes Lord and Lady *Altham* were one Seſſion of Parliament in *Dublin*. Being aſked if he knows Colonel *Dixon*, and whether he was not often at his Houſe in the Country; ſays, he knew Colonel *Dixon*, that he lived at *Colverſtown* in the County of *Kildare*, and Deponent was there often for two Months together, but that was before Deponent was in the Army; ſays, that Colonel *Dixon* was his Stepfather, being married to his Mother. Being aſked if he never was quartered at any other Place than thoſe before-mentioned; ſays, he was once quartered at *Athy*, in the County of *Kildare*. Being aſked if he was always in Terms of Friendſhip with Lord *Altham*; ſays, that Lord *Altham* was inconſiſtent with himſelf, for one Day he was fond of Deponent, and another he was not, and that he had frequent Quarrels with him about his Money: Says, he never had a Protection, and never made an Affidavit about this Affair: Says, his Memory is as good as ever, (except when diſturbed with too many Queſtions, or when Facts are perplexed with a great Number of Circumſtances) and then Deponent cannot be poſitive: Says, that Lord *Altham* would be out with Deponent one Moment, and in with him the next; and Deponent remembers that one Morning his Lordſhip applied to the Government to have Deponent broke, and that very Day invited Deponent to dine with him. Being aſked if he ever ſaw Mrs. *Piggot* or Mrs. *Giffard* at *Dunmain*; ſays, he never ſaw either of them there, but he believes Mrs. *Piggot* was there ſeveral times, and has heard that Mrs. *Giffard* was there after Lady *Altham* came down to the Country. Being aſked if he knew Mr. *Briſcoe*; ſays, he does not know him, but has heard that he was Collector of *Wexford*, and was broke there, and went to *England* to the Duke of *Buckingham*, and on

his Return to *Ireland* my Lady *Altham* came over with him.

Fifth Witness. *William Elmes. Sworn to the* Voire Dire, *and then* in Chief. Says, he lived at a Place called *Miltown* in the County of *Wexford*, about a Mile, or a Mile and a Quarter from *Dunmain*, about the Years 1714, or 1715, and remembers my Lord and Lady *Altham* living at *Dunmain*, and resorted there to my Lord sometimes as a Neighbour, and sometimes on Business; that Deponent lived at *Miltown* before my Lord and Lady came to *Dunmain:* Says, he knew my Lady very well, but was never introduced to her. Being asked if he knew any, and which of the Servants who lived there; says, he knew *Anthony Dyer*, (my Lord's Gentleman) *Martin Neife*, (the Smith) *Rolph*, the Butler, and one *Cavanagh*, and remembers Mrs. *Heath* my Lady's Gentlewoman; remembers also *Joan Laffan*, and *Joan Landy*, who was the Kitchen Maid, and was with Child at the Time my Lady came first to *Dunmain*, and at that Time in my Lord's Service there: Says, *Joan Landy* left the House soon after my Lady came, and believes she went away because she was with Child; that she had a Brother (who lived as a Cottier with Deponent) and as she used to come to her Brother's House, sometimes Deponent happened to see her: Says, that when she left my Lord's House, she went to her Father's, *James Landy*, who had a House on the Lands of *Dunmain*, where she was brought to Bed of a Boy; that her Brother told Deponent of her being brought to Bed, and Deponent went to see her at her Father's in about a Week or Ten Days after she was deliver'd: Says, that having a Curiosity to know who the Father of the Child was, Deponent asked her the Question, to which she answer'd it was my Lord's Child; and Deponent saw the Child from Time to Time afterwards when it was about Half a Year old, and a Year old, at *Joan Landy*'s Father's House: Says, that after the Separation of Lord and Lady *Altham*, when Lady *Altham* had quitted the House, the Child was brought there, being then, as near as Deponent could judge, not less than three Years old: Says, he saw the Child at the House of *James Landy* (his Grandfather) when he was about two Years old and that the said House was about a Quarter of a Mile

Mile from *Dunmain*. Being ask'd if there was any Coach-road made from my Lord's House to *Joan Landy*'s; says, that there was no Road made, but only a short Way my Lord made to go a hunting, that there being a Slough there, the same was thrown up on each Side to make it passable. Being asked if the Child he saw at *Dunmain* House was the same he saw at *James Landy*'s the Grandfather; says, it was the same Child, and that one Day as Deponent came to *Dunmain*, he met my Lord at the Door, and the Child was there at that time, and while Deponent stood there, *Joan Landy* looked in at the Gate, and my Lord espy'd her, and called out to his Servants with an Oath to bring out the Hounds, and set them at the Whore, for that he would not for 500 *l.* let the Boy know that that Whore was his Mother. Says he never saw the Child but once after that Transaction, which he believes was not above a Month; that old *James Landy*'s House was soon after ordered to be thrown down. Says, the Child was kept at *James Landy*'s all along in a poor Way till he came to *Dunmain* House. Says, he never heard that my Lady *Altham* had a Child, and that the Child he saw was always reputed a Bastard, and never was at *Dunmain* House during my Lady's Abode there, but was kept all that time at old *Landy*'s House. Being desired to describe *Landy*'s House, and whether there was any Alterations made in it since *Joan Landy* came to live there; says it was a Shepherd's House, but a very poor one, had only one Chimney in it; that it consisted but of one Room, with a Partition of Sodd and Stone; that there was no Glass Window in it: Says, it was not white-wash'd or plaister'd, nor any Alteration made in it when *Joan Landy* came to live there; that there was no Furniture in it but a large Straw Bed, and all the Bed-cloaths not worth a Shilling. Says, he never saw any other Boy at *Dunmain* House but *Landy*'s Child; and that when the Child was at old *Landy*'s House, he was clad in Rags, with Flannel Blankets about him, but when he came to *Dunmain* House, Lord *Altham* sent for a Taylor, and ordered him some Cloaths. Says, that Deponent constantly went to *Dunmain* House by *Landy*'s.

Says,

Says, *Joan Landy* herself nursed the Child; is sure there was no new Road made, but that a Coach might drive that Way, it being a Field. Being asked if he knew *Joan Laffan*; says he did, and that she was in my Lord's Service as a Laundry Maid, and was there in my Lady's Time, and for some Time afterwards. Being asked if he ever saw a Child in the Care of *Joan Laffan*; says, he never did. Being asked if he thought she ought to be believed upon her Oath; says, he does not think she ought to be believed.

Lord Chief Baron. *Joan Laffan* has given a good Character of this Witness on her Examination.

Court. Call *Joan Laffan*, she being called appeared, and put on the Table with the other Witness *Elms* — and being both asked if they knew one another, they severally answered they did.

Joan Laffan sworn again, and being examined — said, she knew Mr. *Elms* since she knows any Body, and is the same Person that she mentioned on her former Examination — said, she never saw him but once at *Dunmain* in the low Parlour, which was after Lady *Altham* left the House, and that she had the Care of Master *James Annesley* at the House half a Year before her Ladyship left it.

Elms examined — said he believed the Child was never there whilst Lady *Altham* was at *Dunmain*; or that she ever saw it.

Laffan examined, swore the Child was there for the half Year, and described the Cloaths it wore during that Time.

Elms said, he never saw such — and that he several Times saw and spoke to the said *Joan Laffan* at the House, and said, she was Laundry Maid. *Laffan* contradicted him, and said she was House Maid, and said, there was a Room made handsomely up at old *Landy's* for the Child for *Joan* to nurse him — as in her original Examination.

Elms examined, said, he never saw any such Room, as *Joan Laffan* describes it to be, unless it was under Ground.

Joan Laffan examined, said, she lived at *Dunmain* about

about a Year before Mr. *Unack* went there to live, and that Mr. *Taylor*, *Sutton* and herſelf lived in the Houſe and Captain *Aaron Lambert* was ſick there for about a Fortnight or three Weeks, ſaid, that *Sutton* was Doctor in the Family, and was one whole Year at the Houſe before they left it, that he was an *Engliſh* Man and gouty —— and then deſcribed the Road made to the Nurſe's Houſe.

Elms examined, ſaid, he believed that Road was made as *Laffan* deſcribed, and that they could go to Captain *Giffard*'s that Way, but that the Road was made no further than the Cabin.

Joan Laffan examined, ſaid, a thouſand People knew that Lady *Altham* had a Son.

Elms examined, contradicted her, and ſaid, he never heard her Ladyſhip had one, and that Mrs. *Giffard* viſited at Lord *Altham*'s.

Joan Laffan. —— My Lords, the Witneſs Mr. *Elms* has been pleaſed to call my Character in Queſtion, with your Leave, my Lords, I deſire to know from him, and in the Face of the Court, in what Particulars I am not to be believed, or in what I have defrauded any Perſon.

Court. Mr. *Elms*, the Witneſs *Joan Laffan* has now called on you for a Character, what have you to ſay againſt her?

Elms. My Lords, all I have to ſay is, that Mr. *Taylor* the Witneſs, *Joan Laffan*, and her Brother were charged with Stealing ſome of Lord *Altham*'s Goods after his Lordſhip left *Dunmain*, and that the Witneſs *Joan* had a Child by *Taylor*; that he was High Conſtable and went to ſearch for the Goods, ſaid to be ſtolen at her Brother's Houſe, that there was a Feather Bed, ſome Bottles and a Pair of Shoe-buckles, ſaid, he found ſuch Goods there, but can't ſay they were the Goods of Lord *Altham*, having never ſeen them before, nor did he ſee the Goods in actual Poſſeſſion of *Joan Laffan*, and knew no other Thing againſt her.

Joan Laffan. My Lords, as to the Feather-Bed, it was my own, but there being ſome old Feathers in the Houſe,

House, when Lord *Altham* left it, he gave them to me, and I mixed them with the other in the Bed, and as to the Bottles or Buckles I knew nothing of them, no body could prove or say any thing against us, but what was honest.

Court. Joan Laffan, You may withdraw, — and she being withdrawn, —— the Council for the Plaintiff proceeded to Cross-Examine the Witness *Flud*, who being examined who were the Servants at the House when Lady *Altham* went to *Dunmain*;

Said, there was *Taylor*, *Dwyer*, *Robb*, a Coach-Man, and a Smith; — Mrs. *Heath* was Lady *Altham*'s Maid, and *Joan Landy* was Kitchen Maid; said, his Reason for taking Notice of *Joan Landy* was that she was with Child; said, he was made High Constable in the Year 1717, and was then High Constable before, and went to *Dunmain* half a Year after to collect the Publick Money, but did not get it, — knew none of the Servant Maids but Mrs. *Heath*, and the Kitchen Maid; said, that it was reported that the said *Fuggy Landy* was great with Child by *Robb* the Butler, and others did not know that *Joan Laffan* was there then — said, he dined and supped some Times with Lord *Altham* before Lady *Altham* came to the Country, but never after, but dined with *Taylor* and the upper Servants, and did not converse with the lower Servants; —— that he did not know when Lady *Altham* left *Dunmain*, and that old *Landy* lived at the Lands of *Dunmain* when Lady *Altham* came to that Country, but that he never was at *Landy*'s House before he went to see *Joan Landy* there; —that he supposed she was brought to Bed before he went to collect the Publick Money about a Year, and that he was acquainted with her a Year before he was made High-Constable —— did not know when Lady *Altham* came to the Country, but saw her Ladyship before *Fuggy Landy* was brought to bed, that he went to see her after she was brought to bed, because he heard it was Lord *Altham*'s Child, he asked her how she did, she said she was very sick, and told him that the Child was Lord *Altham*'s, that he afterwards saw the Child on his Grand Mother's back turning Sheep, that he had light

colour'd

colour'd Hair, and she was brought to bed in the Spring, said, his Reason for going so often to old *Landy*'s was, that he was cutting Turff near that Place; said, he never heard *Joan Landy*'s Child died of the Small-pox till now, and that he never made an Affidavit about *Juggy Landy*'s Son; said, Lord *Altham* lived more than half a Year at *Dunmain* after his Lady left it, and believed in his heart that it was soon after that he saw *Juggy Landy*'s Son there, that the Child was not dressed when he came there, but had a yellow Petticoat and a Blanket on, and the next Day he saw the Child in that Dress at *Dunmain*, and that Lord *Altham* sent for a Taylor, and the Coat he made for the Child was a Sort of a yellow Silk; — said, he never saw *Aaron Lambert* at *Dunmain*, but heard he was there, that the Child walked publickly about the House, and might be seen by every body about it; — said, the High Constables gather the Publick Money, but did not see Lady *Altham* there when he went there for that purpose.

Council for the Defendant. My Lords, We will now produce Mrs. *Giffard*, who is proved to be a Visitor of Lady *Altham*'s, to shew that at the Time of this pretended Birth, that her Ladyship was at the Assizes at *Wexford*, in Company with this Gentlewoman, and that she was not then with Child, or knew to be with Child, and immediately after went to *Dublin*.

The sixth Witness. Mrs. *Anne Giffard*, says, she was very well acquainted with the late Lord and Lady *Altham*, and remembers my Lady's first coming to *Dunmain*; that Deponent at that Time lived within a Mile and an half of *Dunmain*; that it was a little before *Christmas*, and Deponent visited her in the *Christmas* Holy-days, and her Ladyship returned the Visit, and they visited each other frequently, while her Ladyship continued at *Dunmain*. Says, that she believed my Lady came first to *Dunmain* in 1713, and continued there about three Years or better; says, she never observed my Lady to be with Child, nor never heard, nor does Deponent believe she was, and believes it was impossible for her Ladyship to be with Child without Deponent's seeing or hearing of it. That Deponent was often in my

Lady's Dressing-room, and saw her dress herself, and was never a Month without seeing her Ladyship, while she was at *Dunmain*; says, she never heard my Lady say she was with Child; on the contrary, remembers that Deponent being herself with Child, when my Lady came to *Dunmain*, was one Day somewhat melancholy, and complained a little to my Lady of the Trouble it gave her, upon which her Ladyship said, *What, do you complain? I wish I was in the same Condition*; that the Child Deponent was then big of, was afterwards born, and is since dead, and if he was now alive, would be between 29 and 30 Years of Age; says, she never saw a Child in *Dunmain* House since my Lady's Time, and is sure he was never shewn her there. Being asked if she ever saw *Joan Landy*; says, she never did but once; to the best of her Knowledge; believes she was a Kitchen-maid at *Dunmain* House; says that Lady *Altham* and Deponent went in Lady *Altham*'s Chariot to the Assizes of *Wexford* to see some Men tried there for lifting Men for the Pretender; that one Mr. *Walsh* of *Monasheen*, and one Mr. *Masterson* his Nephew, and one *Doyle* a Clergyman were the Persons tried; that my Lady and Deponent went into Court with some other Ladies; says, to the best of her Recollection, it was in the Spring Assizes, and my Lady staid at *Wexford* for about a Week, and then returned to *Dunmain*, and Deponent and she lodged at one Mr. *Sweeny*'s at *Wexford*; says, she was never with my Lady at *Wexford* but once, and believes my Lady in about five Weeks after went to *Dublin*. Being asked if my Lord and Mrs. *Heath* went to the Assizes; says, they did, and they both rode on Horse-back. Being asked if she could recollect what Men-servants went with my Lady; says, she does not remember who they were, but some Men servants did go with her Ladyship. Being asked if she then heard that my Lady had had a Child, or if she observed her Ladyship at that Time to be with Child; says, she never heard that my Lady had a Child, and that her Ladyship had no Appearance of being with Child, at that Time. Being asked if she ever heard of there being any Rejoic-

Rejoicings at *Dunmain* upon the Birth or Christening of any Child; says, she never heard of any.

Cross Examined.

Being asked how often Lady *Altham* and she went into the Court-House; says, but once; and Lord *Altham* and *Cesar Colclough*, Esq; went into Court with them. Being asked if she observed any Gentlemen of the Country there that she knew; says, she remembers none but *Cesar Cloclough*, Esq; and he sat by Lady *Altham* and Deponent in the Court-House. Being asked if she could recollect who were the Judges of the Assize; says, she cannot tell. Being asked when Lady *Altham* returned to *Dublin*; says, the latter End of the Summer, as she believes. Being asked if she saw Mrs. *Briscoe* in *Dunmain* House, or a Daughter of her's; says, she saw them there, and that they came to *Dunmain* after Lady *Altham* was there; that they staid there a good while, but believes the Daughter staid the longest, which was in all about three Months, as she believes. Being asked if she heard that my Lady was confined to her Chamber, at that Time, or that she miscarried; says, she frequently visited her Ladyship at that Time, but never knew her to be confined to her Room, nor ever heard she miscarried. Being asked if my Lady was in Mourning at the Assizes; says, she was, but cannot tell who it was for. Being asked whether Mr. *Colclough* or the other Gentleman she saw at the Assizes, were in Mourning; says, she cannot tell. Being asked how she came to go to the Assizes; says, my Lady sent for her to go with her; says, she knew my Lady was in *Dublin* twice, and that my Lord went with her both Times: Says, that the Separation of my Lord and Lady happened about three Years after my Lady came to *Dunmain*. Being asked if she knew Mr. and Mrs. *Piggott*; says she did, and that they lived at a Place called *Tynten*; says, my Lord's Chariot often came to Deponent's House, but knows of no other Road from Deponent's House to *Dunmain* than the Road over the Bridge.

Seventh Witness. Mrs. *Catharine Lambert*, says, she is Wife to *Aaron Lambert*, and that she knew the late Lord *Altham* and his Lady, when my Lady came to *Dun-*

main in 1713; that Deponent often came from *Ross* to visit her Ladyship, and her Ladyship continued at *Dunmain* for about three Years; says, she never observed my Lady to be with Child, nor ever heard, nor does Deponent believe, that she ever was with Child, or had a Child while she lived at *Dunmain*, or elsewhere, and Deponent was very intimate with, and frequently visited her; that Deponent was at *Waterford* at the Time of the Queen's Death, and in the *Christmas* 1714, and Deponent used often to go backwards and forwards between *Ross* and *Waterford*, Deponent's Father living at *Waterford*, and Deponent having Lodgings there. Being asked if she remembers the Separation of my Lord and Lady *Altham*; says, she did, but never heard of a Child, nor never saw a Child at *Dunmain* House, and is sure that no Child was ever shewn her in my Lady's Time; and Deponent never was there after the Separation; says, she never visited my Lady at *Ross*.

Croft Examined.

Being asked if she knew where her Husband Mr. *Lambert* was in the Year 1714; says, he was on *Dublin* Duty, remembers that he was ordered up in all haste to proclaim the King. Being asked if she knows Mr. *Mathias Reily*; says, she has known him for many Years, and that he is an Agent for the Defendant. Being asked when she saw him last; says, she sees him every Day, and has seen him this Day. Being asked where he lodges at present; says, he has lodged and dyeted with Mr. *Reily* these six Years past, and pays sixteen Pounds a Year for her Board and Lodgings. Being asked if she does not live with her Husband; says, she has lived separate from him these sixteen Years, and has a separate Maintenance. Being asked whether her Husband is a fit Man to be believed upon his Oath, and if the Answer which he put in to a Bill exhibited by her was a true Answer.

This was objected to by the Defendant's Counsel, for that it tended to make her give Evidence against her Husband; that a Man's Reputation and Character is his Property, and that a Wife in no Case, except for High-Treason, or for some other wicked Attempt against the

Wife

Wife herſelf, can be Evidence againſt her Huſband; that it was an inſnaring Queſtion, becauſe as Mrs. *Lambert* and her Huſband were at Law together, her Anſwer, if it ſhould prove in the *Affirmative*, would prejudice her Right, whereas if ſhe happened to give a bad Account of his Teſtimony, ſhe would injure her Husband, which the Law would not ſuffer, much leſs compel, her to do. After ſome Debate, the Court was of Opinion that the Wife might be examined as to the Character of her Huſband, but not as to his Liberty or Property; but the Counſel for the Plaintiff waved the Queſtion.

And it being about eight o'Clock at Night, the Court with the uſual Conſent, in Writing ſigned by the Parties (and which was read in open Court) adjourned to nine o'Clock next Morning.

The Seventh Day of the TRIAL.

Friday, November 18, 1743.

THE Court having met at nine o'Clock according to Adjournment, the Jury were called over, and anſwered to their Names, and then the Counſel for the Defendant proceeded in their Examination as follows:

Court. Gentlemen for the Defendant proceed with your Evidence.

Council for the Defendant. My Lords, we have proved, that Lady *Altham* was at the Aſſizes of *Wexford* at the Trial of *Maſterſon* and *Walſh*, but the Witneſs was not poſitive, whether the ſame was in Spring or Summer Aſſizes 1714, we will now produce a Witneſs, one Mr. *Ker* who was there, to ſhew the very Period of Time when the Trial was, and the Occaſion of his being at that Aſſizes.

Eighth Witneſs. *John Ker*, Gent. ſworn, and being examined, ſaid, That in the Year 1714 Mr. *Forſter* was appointed Lord Chief Juſtice, and in the ſame Year his Lordſhip

ponent, that as he was to hunt the next Morning, if Deponent rid his Horse that Day, he would not be able to carry him, and therefore desired Deponent to stay and breakfast with my Lady, and then his Lordship went down Stairs.—That Deponent accordingly went down into my Lady's Room, where he had often breakfasted before.—That Deponent, having been some Time with my Lady, heard a Noise, and presently my Lord came into the Room with some of the Servants, and having a drawn Sword in his Hand made a Thrust at Deponent, and one *Anthony Dyer*, his Servant, took the Sword out of his Hand; Deponent being then hurried into another Room, one of the Servants cut a Piece off of Deponent's Ear. [*And Deponent took off his Wig, to shew in what Manner his Ear was cut.*] That (upon the Oath he had taken) he never attempted the Virtue of Lady *Altham* in any Respect, and that she was intirely innocent with Respect to him; and says, that at the Time he received that Usage there was no Child in the Room, nor did Deponent ever see any Child in the House; says, my Lady usually breakfasted in Bed.

[*There being such Contradiction between this Witness's Testimony and* Joan Laffan's, *who swore, that at this Time she had the Child in her Hand, and that he pointed to the Blood of Mr.* Pallifer's *Ear; and it being apprehended that* Joan Laffan *had said that the Ear was cut off; whereas it appeared it was not, and that only a Piece of it was cut off: the Court ordered* Joan Laffan *to be call'd, and that the respective Attornies should go to her immediately, for Fear of her being tutor'd previous to her coming on the Table.*]

Mr. *Pallifer* was continued to be examined till she appeared, as follows. Being asked, what Servants were in the House at this Time; says, he remembers *Anthony Dyer*, and *Charles* the Butler, whose Sirname Deponent does not recollect, and remembers Mrs. *Heath* and *Joan Laffan* there. Being asked, if he saw any Child in her Arms, or in the Arms of any other Person in the House; says, he never saw a Child in *Joan Laffan*'s Arms, or

in

in my Lady's Arms, or in the Arms of any Servant of the House.—That *George Gutrap*, a Surgeon, attended the Family while he was there; that he was a gouty Man; but does not know if he was reported to bleed well. Being asked, in what Station *Laffan* was employed, and what his Opinion of her is, says, she used to wash the Parlour, and takes her to be a vile Woman; and is sure that not a Man in the Country heard that Lady *Altham* had a Child. Being asked, what Character Mr. *Elms* bears; says, he would venture to affirm that there is not one Gentleman in the Country that would give Mr. *Elms* a bad Character. Being asked, if he ever heard that Mr. *Elms* ran away with the Publick Money, of which he was appointed Collector; says, he never heard any such Thing.

Cross Examined.

Being asked, whether, when my Lord *Altham* parted from my Lady, there was any Friendship between him and the late Lord *Anglesey*; says, he knew of no Enmity between them;—says, he believes Lord *Altham* called Deponent out of Bed in order to execute his wicked Purpose against my Lady, his Lordship taking it for granted, that when he was gone from the House Deponent would go into my Lady's Room as he usually did, for the Sake of Company, and then upon his Return finding him there, as he expected, made that a Pretence for parting with her;—says, it was only a Pretence, for that for the most Part Deponent used to breakfast with her Ladyship by my Lord's own Directions.

[Joan Laffan *being come upon the Table, a Complaint was made by the Defendant's Agent, That Mr.* Annesley's *Servant was found speaking to her, whereupon the said Servant was ordered to be sworn; and called upon to declare what he had said to her. Being accordingly sworn, he only said, that he told her, she was sent for by the Court, and that young* Pallisen *was then examining; and that she answer'd,* I don't care; if I go, they'll get nothing by it.]

Joan Laffan being directed by the Court to repeat the Account she had before given of the Separation, and the

Occasion of it; says, that Mr. *Pallister* behaved very ill to the Servants; that he put some Horse-Jallap into some of their Drink, and used to tell my Lady Lies of them; for which Reason he was so little regarded by them, that he was forced to wash his own Stockings; that my Lord laid a Plot against him with some of the Servants, and made *Anthony Dyer* and the other Servants take an Oath of Secrecy; that on the *Sunday* Morning there was a Fire ordered in my Lady's Room, and my Lord pretended to my Lady that he was obliged to go out to Dinner; that Mr. *Pallister* breakfasted with my Lord, and they had a Bottle of mull'd Wine for Breakfast; that as soon as my Lord was gone out, Mr. *Pallister* went into my Lady's Room, and the Plot having been laid before, a Signal was made, which brought my Lord back; that my Lord ran up with his Sword, and had him brought out of the Room, and the Groom came to *Pallister*, and said to him, Is this the Way you keep my Lady Company? and took out a Case-knife in order to cut his Nose, but he was ordered only to cut his Ear.——That Deponent was standing by in the Room, and she had the Child in her Hand, and he shew'd her the Blood out of *Pallister*'s Ear; says, it was the soft Part of the Ear that was cut; and the Child pointed at the Blood that came out of the Ear;—says, that *Pallister* was found in the Room with my Lord's silk Night-cap on his Head, but had his Hat and Wig on at Breakfast;—says, that when her Ladyship breakfasted in her Room Deponent attended her; but when she breakfasted in the Parlour some of the other Servants did;——says, that no Man was ever admitted into her Bed-room to Breakfast. Being asked, what Time she came into the Service, and how old the Child was at that Time; says, she lived with Colonel *Dean* when King *George* came to the Crown, and that she came into my Lord's Service in 1715, and that the Child was then about three Months old, and has seen Mr. *Pallister* often play with him.

Mr. *Pallister* being asked, if he saw a Child in her Arms; says, he did not. But *Joan Laffan* swore he did. And she farther said, it was about Harvest-time that she came into my Lord's Service.

The

[The Court said, that Laffan *had sworn nothing contrary to her former Testimony; that she had only explain'd what she meant by the Ear's being cut in her first Examination: But declared their Surprize at the Contradiction of the Evidence on both Sides.]*

Mr. Palliser *continued to be cross-examined.*

Being asked, if he believed my Lord would have run him through if he had not been prevented; says, perhaps he might have wounded him, for he directed the Sword to Deponent's Person. Being asked, if ever he saw *Joan Laffan* attend my Lady at Breakfast; says, he never did; that it was Mrs. *Heath*, who always attended her; for that my Lady was a proud Woman, and did not love to have low Servants about her. Being asked, if he ever breakfasted below Stairs before with my Lady; says, he did, and was frequently desired by my Lord so to do; ——says, he breakfasted with my Lady several Times the very Week before the Separation, and my Lord knew it. Being asked if he did not tell my Lady of my Lord's Inclination to part with her, considering how intimate Deponent was with her; says, he never did. Being asked if my Lord ever applied to Deponent to make up the Difference between them; says, he never did. Being asked how many Days it was before parting that he had that Conversation with my Lord; says, about four or five Days, but does not remember what Day; says, that *Taylor* and *Sutton* rode before my Lord at the Time of the Conversation, and his Lordship seemed melancholy. Being asked if my Lord ever talked to him before that Time about that Affair; says, he never did. Being asked where he breakfasted that Morning; says, in *Sots-hole*, and that *Taylor* and *Sutton* breakfasted with them. Being asked what the Breakfast was; says, he believes there was mulled Wine for Breakfast, as the Woman (*Laffan*) said; says, he generally used every Hunting-March to call my Lord. Being asked what Cap he wore the Morning of the Separation, and if it was a Silk Cap; says, he does not know what Cap he wore, or if he changed Caps, but believes it was not a Silk Cap he wore. Being asked who used to take Care of the Linnen; believed it might be *Joan Laffan*.

Being asked where my Lord used to dress; says, below Stairs; says, he knows nothing of a Silk Night-cap, nor what Night-cap my Lord wore; knows not the Laundry-maid; but believes *Joan Laffan* assisted her; says, *Taylor* and *Sutton* used to drink late, but my Lord did not; says, that he often breakfasted with my Lady when my Lord was not with her; says, my Lady generally was in Bed with nothing on but a loose Gown, or Wrapper; but the Maid was generally backward and forward in the Room; and knows not but it was by Directions of my Lord. Being asked again what sort of Cap he wore that Morning; says, he is not certain, but believes it was a Linen Cap, but is positive there was no Child there. Being asked if he knew one Mr. *Briscoe*, or his Daughters; says, he does not, but remembers to have heard of one Miss *Briscoe*. Being asked what Steps he took to resent the Usage he had met with from my Lord *Altham*; says, he sent him a Challenge the next Morning, and posted his Lordship for not meeting him; and that his Father likewise challenged my Lord to fight him, if his Lordship thought Deponent too young an Antagonist; says, my Lord went out of the Country soon after, and Deponent pursued him out of Town with Pistols. Being asked what Time my Lord left the Country; says, he cannot know, but thinks he left it in 1717. Being asked whether he did not receive several Blows the Morning of the Separation; says, he did, and fell down, and was stunned with the Blows; says, it was *Anthony Dyer* that took the Sword out of my Lord's Hands. Being asked whether he ever saw Mr. *Pigott* of *Tintern* at *Dunsford*; says, he never did to his Knowledge, but remembers to have seen him at his Father's House; says, that when my Lord came up to Deponent that Morning, he told Deponent he was going to *Totnam Green*, but that Deponent should not go with him. Being asked how he came to tell my Lord, that there was *Taylor* and *Sutton* at home to keep my Lady Company; says, that *Taylor* and *Sutton* used to dine with my Lady, and that *Taylor* was a kind of Receiver; says, the Occasion of his going into his Lady's Room that Morning, was, to carry her a Lap-dog she was fond of, and swears he did not go with any criminal Intent.

Council

Council for the Defendant. My Lords, we will now call *Thomas Rolph*, who has been proved to have been a Servant in the Family.

Tenth Witness. *Thomas Rolph* sworn, and being examined; said, that he knew Lord and Lady *Altham* in *England*; two or three Years before Lord *Altham* came to *Ireland*; that he was Butler to his Lordship at *Dunmain* in the Year 1713, when Lady *Altham* came there; that he came to *Ireland* with his Lordship the latter End of the Year 1711, or Beginning of 1712, and lived with him to the latter End of the Year 1715; said, he was in his Lordship's Service at *Dunmain* for one Year and a Half, whilst her Ladyship was there, waited on her Ladyship twice a Day at Dinner and Supper, and never knew or saw that she was with Child, nor never saw a Child there; said, that he never saw, heard, or knew, that her Ladyship was with Child, or had a Child, or any thing like it; that he often heard them both say and wish they had a Child many and many a Time; said, the Servants that were in the House in his Time were, *Thomas Quin* the Coachman, one *Byrne* the Postillion, *Michael Forster* the Cook, one *Arthur* a Gardener, and never heard him called by any other Name; one *Martin* a Smith, but never heard him called by any other Name, or Christian Name; *Juggy Landy*, the Kitchen-Maid under the Cook, little Black *Nell*, a Weeding-wench under her, *Mary Hales* the Dairy-Maid, one Mrs. *Setwright*, a House-keeper, sent down two or three Days before Lady *Altham* came, *Mary Waters*, Chamber-maid, and one *Betty Doyle*, a Laundry-maid, Mrs. *Heath*, the Lady's Maid; —that when *Mary Waters* went away, one *Thomas* came in her Place, and that *Mary Waters* used to carry up the Tea-kettle to the Lady's Bed-Chamber; said, he was sure he could now remember *Betty Doyle*, or *Elizabeth Doyle*, if he could see her.

Council for the Plaintiff. My Lords, we have no such Witness.

The Witness being further examined; said, *Anthony Dwyer* was the Lord *Altham*'s Gentleman; that his Lordship kept Hounds, and one *Smutty* was the Dog-boy; that he did not know or see *Joan Laffan*, for that he left his Lordship the latter End of the Year 1715, between

between *Michaelmas* and *Christmas*, and knows of no Servant that came in his Place, but that *Mary Waterse* was turned away in his Time;—said, *Joan Landy*, the Kitchen-maid, was with Child, and went to her Father's House, a little Cot, above the Sheep-walk, and there she was brought to Bed, about a Furlong and a half distant from *Dunmain* House; that he went into *England* from Lord *Altham's*; and from thence went into the Horse-Guards for twenty Years; that *Joan Landy* was brought to Bed in two or three Days after she left the House; that he went to see the Child, carried it to the Door to see if he knew who the Child was like; that he asked her who she father'd it upon? She said the Lord *Altham*. The Witness replied, that was well done, for that if she laid it on any Person else, how would it be maintained? said, that he knew several others to have lain with her besides Lord *Altham*; that she was brought to Bed on the Straw; that he had seen the Child Fifty Times after, during the Time he lived at *Dunmain*; that after she was well, she would come to the Back-yard with the Child, and he used to give her Victuals, and that the Child staid at the Cott till the Witness left the Country. The Witness described the House, and drew the Figure of it, and the Insides thereof on Paper, which shewed where *Juggy*, her Father, Mother, and Brother lay; that it was a Hut, a poor mean Place, but one Room, that they lay on Straw, that there was a Fire-place, on the Left-hand, and a Chimney at one End of the House; that there was no Partition, but some Sticks like Hurdles stuck in the Ground, behind which *Juggy* lay; that there was no Windows, Glass, Chair, or Table therein; that no Alteration was made therein, — was not white washed; that they had nothing but Straw and Caddoes, or Blankets, for Covering; that the Child was dressed with a little Blanket about its Shoulders, and when it ran about it had the same Covering on, but that he never saw the Child in the House of *Dunmain* in his Life, nor was it ever suffer'd to come there, the Lady *Altham* having forbid that *Juggy Landy*, or any thing belonging to her, should

come

come about the House or Land; and believed the Reason was the Report of the Child's being the Lord *Altham's*; that he knew of no other of the Servants that went to the Cabin but himself; that there was a Coach road made that Way, but never knew that Lady *Altham* went to the Cabin; that the Cabin was built a Year before the Child was born by one *Sheil*; that he survey'd Part of the Coach-road, which was made a Year before the Cabin was built; that the Road was made to go to Church —— to Colonel *Pallisor's* —— to Mrs. *Giffard's*, and the Mill; that Mrs. *Giffard* used to visit Lord *Altham* before her Ladyship went to *Dunmain*; said, he knew Mr. *M'Kircher*, that he came to his House in the Parish of *Marybone*, sent a Couple of Fowls and some Lamb for Dinner about a Year last Summer; that two Gentlemen were with him, one called Sir *Thomas*, another like an Officer, who spoke in the *Scotch* Accent.

Council for the Defendant. My Lords, this Mr. *Mac Kircher* is Agent and Manager for the Lessor of the Plaintiff in this Cause, If the Plaintiff's Council will not admit it, we will prove it.

Council for the Plaintiff. We admit Mr. *M'Kircher* is now Agent and Manager for Mr. *Annesley*, the Lessor of the Plaintiff.

Court. Witness, give an Account of the Conversation you had with Mr. *M'Kircher*.

Witness said, that after Dinner and drinking a Bottle of Wine, Mr. *Kircher* ask'd him, if he ever lived with Lord *Altham*? The Witness said he did. He then ask'd him if Lady *Altham* had a Child? —— The Witness said, she had not. Then he asked, who were Servants in the House? The Witness named some of them. Mr. *Kircher* ask'd him if he would accept of a Lieutenancy? The Witness replied he would not, for that he could live better as he was, than on the Pay of a Lieutenant; that in about a Fortnight after Mr. *Kircher* came to him, and ask'd him if he would accept of a Lieutenancy? The Witness then desired him to go about his Business, for that he would not be tamper'd with; that Mr. *Kircher* desired further to speak to him.

The

The Witness was angry, and said he would not; that he was at his own Door, and desired Mr. *Rochor* to walk in, and speak to him before the Gentlemen then present, who were Mr. *John Firns*, a Clerk in the Exchequer, and Mr. *James Priestly*, Master of the Tennis Court, and two others, *John Barker*, and *John Hood*, a Gardener; that he told them of the Conversation, and that they were at his House the first Time, and some others, and only them the second Time; that those Persons have little Gardens under him, that he let to them, but that he sold no Garden-stuff; said, he went with Lord and Lady *Altham* to *Wexford* in the Spring of the Year, that Mrs. *Giffard* went there, Mrs. *Heath* and the Postilion, but did not remember, whether it was in 1714 or 1715; but said, it was at the Time some Persons were tried for being Pretender's Men; that his Lordship, he, and Mrs. *Heath* went on Horseback; said, about *Michaelmas* after he beat the Gardener for not letting him carry Water: On which the Gardener complained to Lord *Altham*, and his Lordship wrote a Letter in order to send the Witness to *Wexford* Goal; that my Lord and Lady was then in *Dublin*, and went thither in *May* 1715, and that he the Witness left the Service on the Beating, but whether it was the *May* after they came from *Wexford*, he did not remember; that they were both in *Dublin* at the Death of Queen *Anne*, and afterwards went to the Assizes of *Wexford*; said, that he went from *England* to *Ballyback*, before Lord and Lady *Altham* returned from *Dublin*; that he knew of the Christening of *Joan Landy*'s Chid by one *Downs*, a Priest, at a Village called *Mash*, but that he was not there; that the Child was always called *James*, and not by any Sirname.

Cross Examined.

Said, that immediately after he left the Service for beating the Gardener; that about *Michaelmas* 1715 he went into the Army; that his Reason for going to see the Child was, that he knew a Person that lay with the Mother; that he did not believe that the Child was Lord *Altham*'s, but believ'd it was the present Earl

of

of *Anglesey's*, but believed Lord *Altham* thought it to be his Child, but not from any Message sent to him; said, the Child was never reputed or call'd the Witness's, that the Coach-road made by the Cabin was the nearest and best Road to Mrs. *Giffard's* and Mr. *Pallifer's*, and that Mr. *Giffard* most commonly came that Road; said, there was a Bridge built going to *Ross*, over which was the Round-about Way to Colonel *Pallifer's*; said, no Person came down with Lord and Lady *Altham* to *Dunmain*, but Mrs. *Heath*; said, Mrs. *Briscoe* and her Daughter came down after, but as to the Time when he did not remember, and that they staid there a Month or six Weeks; that he did not know *Edward Lutwitch*, that Lady *Altham* went in a Coach to *Wexford*, drawn by six Bay Horses; that they staid in *Wexford* three or four Days; that the Witness lodg'd at the Post-Office, but knew not where Lord and Lady *Altham* lodg'd, he not going to see them at that Time; —— could not tell what Cloaths his Lord and Lady wore there, but himself had dark Cloaths on; that he run away for beating the Gardener, and had no Wages; that he now lives at *Marybone*, keeps a Victualling-house and sells Wine; that *Ned Cormick* was the Running-Footman that went to *Wexford*; said, that my Lord's Gentleman was sick when they went to *Wexford*, and he went to attend in his Place; that he never enquired for or saw *Wexford Wells* whilst he was there; said, Lady *Altham* was sick about a Week or Fortnight, whilst he was in the Service at *Dunmain*, but that her Ladyship never kept her Room but about two or three Days; that he had no Business at *Wexford* but to carry Examinations from his Lordship to the Clerk of the Peace; that he gave the Examinations either to the Town-Clerk, or to the Clerk of the Peace, but did not enquire where either of them liv'd, but one or other told him where they were; said, he left his Wife and Family and came to *Ireland* with Lord *Altham*, to get Twenty Pounds his Lordship owed him; that he never made any Agreement for his Wages, nor had he one Penny of the twenty Pounds, nor of his Wages; that when he went to *Wexford* he rode a Bay Horse, Lord *Altham* a Brown *English* Gelding, that they had a Black

Mare, that the Brown Gelding was the coolest and best bred Horse; that he never went to *Dublin* with Lord *Altham*, nor did he ever demand from any Person the Twenty Pounds or his Wages, nor was he yet paid; that he spoke to Five Hundred People about the Pretender's Men at *Wexford*, but does not remember one of them, did not remember any Person named *Charles Maagher*, that lived at Lord *Altham's*; did not know one *Matthias Reiley*; nor does he remember that he ever told the Earl of *Anglesey* about the Pretender's Men; that he knows Mr. *Jones* and Mr. *Borroughs*, and that he heard from Forty People since he came to *Ireland*, about the Pretender's Men being tried at *Wexford* in the Spring Assizes in 1715, but knows not the Names of them, nor whether *Jones* or *Borroughs* were there; that he left *Parkgate* the 15th of *October* last, and landed here soon after; that he knew not at what House, or Place, he heard the Forty People talk of the Pretender's Men; that he does not know the *Merchants Quay*, nor where the Bulk of the Earl of *Anglesey's* Friends are; that he saw Mrs. *Giffard* since he landed, and saw her Yesterday in Court, but did not speak to her, nor did he see her any where else since he came to *Ireland*; that Forty People told him she was examined, but that he knew none of them, nor that he ever heard to what she was examined, or when or what about the Pretender's Men; said, he did not at any Time tell any Person that he was at *Wexford* Assizes in Spring 1715, nor did he serve the present Earl of *Anglesey* in any Station, nor had he any Protection from him; said, he could not tell whether he saw the Child walk about with the Blanket about his Shoulders before Lord and Lady *Altham* went to *Wexford* Assizes.

Eleventh Witness. *Owen Cavenagh*, who being sworn and examined, said, the Earl of *Anglesey*, the Defendant, ow'd him Thirteen Pounds Fifteen Shillings, and that the Money was paid him by Mr. *Derinsey*; that he knew the late Lord and Lady *Altham* very well; that the first Place he saw her Ladyship in was *Dublin*; that he then lived with Lord *Altham*, and went down with them to *Dunmain*; that he afterwards went to *Dublin* with the Defendant

(then

(then Captain *Annesley*) where the Witness was sick of a Fever for some Time;—upon his Recovery he went to his Father's to gather Strength, and afterwards to Lord *Altham* who paid him his Wages, and prevailed on the Witness to hire with him again. Which the Witness did, and staid there some Time, but the Witness having broke the Cook's Head, Lord *Altham* threatened to send the Witness to *Wexford* Gaol: On which the Witness went away without his Wages, went to his Father's, and did not go back again to Lord *Altham*; that he lived with Lord and Lady *Altham* about a Year, but did not know where he was when Queen *Anne* died; that he knew after Lady *Altham* came over, his Lordship was reconciled to his Lady at Captain *Briscoe*'s, and afterwards the Witness went down with his Lord and Lady to *Dunmain*; said, he knew not, nor did he hear that Lady *Altham* was with Child, or ever had a Child at *Dunmain*; that the Servants in the House in his Time were, *Taylor*, the Steward, who fed the Ducks, *Michael*, the Cook whose Head he broke: *Thomas Rolph* was Butler, *Anthony Dwyer*, his Page, Mrs. *Heath* the Lady's Maid, that he saw a Woman called *Joan Landy* in the Kitchen, a Chair-woman that washed the Dishes, but knew not whether she had any Wages; that she had a big Belly, and was then supposed to be with Child; believed, that Lady *Altham* heard by some busy Body that *Joan Landy* was with Child by her Lord, and thereupon was turned away, and that she used to hide herself when her Ladyship came down Stairs, and that the Servants made Game of her; said, he used to air the Horses in the Sheep-walk, where was a little House in which *Joan Landy* wash'd, and that he saw the Child there in *Joan*'s Arms; that he used to go to the Cabin, which was built for the Herd; that there was but one Room in it, no Bed, but two Straw-beds, no Furniture, but a Pot and some few Trenchers, and that there was no Window to his Remembrance; never heard that Lady *Altham* had a Child, but often heard Lord *Altham* wish for an Heir, because his Lordship and the Defendant were perpetually quarrelling; said, that when Lord *Altham* went to live at *Inchicore*, the Witness then lived in *Dublin*, and was married; that

he went to see his Lordship at *Inchicore*, where he saw a Child, and after Dinner he spoke to his Lordship about the Child he saw there, and ask'd his Lordship, why he did not put the Boy to a Trade, the Child being his by *Juggy Landy*? His Lordship answered, that the Boy was ungovernable, and that therefore he would not trouble himself about him.

Cross Examined.

Said, he was married in *January* 1719, that Lord and Lady *Altham* were reconcil'd at Captain *Briscoe*'s, where there was great Joy.

Council for the Defendant. My Lords, we will produce and examine *Anthony Dwyer*, who has likewise been proved by the Plaintiff's Witnesses to have lived in the Family of Lord *Altham*.

Twelfth Witness. *Anthony Dwyer*, who being sworn and examined, said, that he was Servant to the late Lord *Altham* for five or six Years, that his Lordship lived at *Dunmain* at the Time the Deponent went to live with him; that the Deponent was at *Dunmain* both before and after the Lady *Altham* went there, and lived there after her Ladyship came to *Dunmain* three Years, and was in Lord *Altham*'s Service at the Time of the Separation; that he came to *Dublin* with them, and sometimes was sent abroad by Lord *Altham* on Business, was out for a Fortnight, that he never knew or heard that Lady *Altham* was with Child either by my Lord or any other Person, 'till this late Uproar; that the Servants in the House were, *John Green*, Coachman, Mrs. *Heath*, Lady's Maid, and *Juggy Landy*, Kitchen-Maid under the Cook, and that she was there about a Month or two after Lady *Altham* went down to the Country, and was then with Child, that he saw the Child *Joan* had, within a Fortnight after it was born, at her Father's House, who was a Shepherd in a small Hutt, built purposely for the Father, and the Child's Name was called *Jemmy Landy*; that a Bush was pulled in and out for the Door of the Cabbin, and *Joan* lay on Straw behind some Sticks, and the Child was in a very poor Habit; that *Joan* told the Deponent, that the Child was Lord *Altham*'s, saw the Child afterwards about the Stables with the Grooms, whilst

Joan

Joan used to go into the House to beg some Scraps of Meat, and that he went once to see the Child on Purpose; said he never saw Lady *Altham* handle any Child, or saw any Child in the House with her, and that *Joan Landy* dare not come near the House for fear, by Reason of her fathering the Child on Lord *Altham*; that he lived with his Lordship after the Separation, came up with him to Parliament, and then parted from his Lordship, which was the first Parliament held after the Separation; that he knew *Joan Laffan* was Chamber Maid in the House at *Dunmain* for a Quarter of a Year, and never saw her have the Care of any Child as a Dry-nurse; said, that *Juggy Landy* was a strait black Girl, and to the best of his Remembrance is sure *Joan Laffan* lived at *Dunmain* before the Separation about three Months; said, at Lord and Lady *Altham's* first going down to *Dunmain* there were Bonfires, and at no other Time, excepting burning of Bones on some Seasons of the Year, and never knew or saw any Christening at *Dunmain*, nor never saw Mr. *Lloyd* christen any Child there; said, the House wherein *Joan Landy* lived had no Glass-Windows or any other Ornament therein; that he went with Lord and Lady *Altham* to *Dublin*, and that *Rolph* went away before they returned; that he saw Mr. *Thomas Pallifer* at *Dunmain*, and said that Mr. *Pallifer* behaved himself very well whilst he was there, and his being at *Dunmain* was on the Invitation of Lord *Altham*; said, he never took any Oath with any of the Servants against Mr. *Pallifer*, nor did he ever know Mr. *Pallifer* to wash his own Stockings, but that the better Sort of the Servants regarded him, that he had seen Lady *Altham* at Breakfast in her Room, and that her Ladyship's Maid attended her.

Cross Examined.

Said, that he was Goaler at *Cork*, but is not now in that Station; that he is turned of Forty Years of Age, and between that and Fifty; believed that Lord *Altham* staid at *Dunmain* about three Quarters of a Year after Lady *Altham* had left it, and during that Time he never saw any Child there, could not take upon himself to say whether *Joan Laffan* was, or was not in the House

†

House of *Dunlain* after the Separation, but to the best of his Knowledge she was there at the Separation; said, after the Separation he went by *Joan Landy*'s Father's House several Times, but did not go in, nor could he tell what became of her Child after the Separation; that to the best of his Knowledge her Ladyship went to *Dublin* twice before the Separation, with her Lord, but how long they staid there he could not tell, but it was in Parliament Time, and he waited on his Lordship at the Parliament House to robe him, but whether his Lordship staid in Town all the Parliament Time, he could not tell, and believed they might have come to Town in the Summer, but whether they did or not he could not remember; said, he was sick when Lord and Lady *Altham* went to *Wexford* Assizes; that he is acquainted with *Thomas Rolph*, that the Deponent came to *Dublin* last *Sunday* was Fortnight, and on the *Tuesday* following *Rolph* came to the Deponent's Lodging, and no body was with him; that the Deponent lodges at Mr. *Jones*'s House, but that *Rolph* did not; said, that neither he or *Rolph* discoursed about the Deponent's being sick at *Dunmain* when Lady *Altham* went to *Wexford*; could not remember after their Return from *Wexford* whether they spent their Summer at *Dunmain*, or not; that he has very often drank Wine and Ale with *Rolph* since he came to Town, but had not seen him for twice Seven Years before; said, that *Rolph* and he called to Mind all their Merriments together, but said nothing what they knew in this Cause (except to do the Earl Justice;) that they both agreed that Lady *Altham* had no Child at *Dunmain*; said, that *Rolph* left Lord *Altham*'s Service first, for the Deponent was sent down to turn him off for beating the Gardener; said, he could not recollect Mrs. *Piggot* in that Country, or whether he saw her at *Dunmain*, but saw Mrs. *Briscoe* and her Daughter there; said, he never saw Mrs. *Giffard* go to *Dunmain* in a Coach; that the Cabin was up at the Time the Deponent was in the Country, and that *Juggy Landy*'s Child was about three Years old when he saw him,

him, at the Time of the Separation, but that he never saw him after.

Council for the Defendant. My Lords, we will now call Mrs. *Heath*, who is proved to be Lady *Altham*'s own Maid, who will give your Lordships and the Jury an Account that Lady *Altham* never had a Child, was with Child, miscarry'd or sick, was with her coming into the Kingdom, whilst in this Kingdom, at the Separation, and to the Day of her Death.

Thirteenth Witness. *Mary Heath* called, appeared and sworn to the *Voire dire*, and confessed she possessed herself of some of Lady *Altham*'s Effects after her Death.

Council for the Plaintiff. My Lords, we object to this Witness being sworn in Chief, because she has possessed herself of some of the Effects of Lady *Altham* to whom the Lessor of the Plaintiff Mr. *Annesley* is Administrator, and therefore if this Witness shall swear against the Plaintiff Mr. *Annesley*, it is to discharge herself of the Demand the Plaintiff Mr. *Annesley* has on her as Administrator to his Mother, to bring an Action against her for the same.

Court. Produce the Letters of Administration to make out your Objection, that the Court may give their Opinion on that Point.

Council for the Plaintiff. My Lords, we will ask Mrs. *Heath* a Question or two more on this Head, whether she was not served with a Subpœna at the Suit of Mr. *James Annesley*, the Lessor of the Plaintiff, and how he was stiled therein?

Witness said, she was served with a Subpœna at the Suit of *James Annesley*, that she could not read it, nor does she know how he was stiled therein.

Court. Where is your Letters of Administration?

Council for the Plaintiff. My Lords, we have them not here.

Council for the Defendant. My Lords, we pray that the Witness may be now sworn in Chief.

Court. Swear the Witness.

Then *Mary Heath* was sworn and examined; said, she came over into this Kingdom with Lady *Altham* as her

her Woman, and in *October* 1713, became acquainted with Lord *Altham*, when he and his Lady were reconciled, and lived with her Ladyship from that Time to the Day of her Death, which, to the best of her Recollection, was in the Month of *October* 1729; and during that Time was never out of her Ladyship's Service, or even one Week from her all that Time; that she went to *Dunmain* with her Ladyship the *Christmas Eve* in the same Year they came over, and staid there till *May* or *June* following, and that Lord and Lady *Altham* lived together from that Time to the Month of *February* 1716-17, before they parted; said that Lady *Altham* never had a Child, or was with Child, during the whole Time the Witness lived with her; that she always put her Ladyship to Bed and took her up, except for one Week that she was absent; was always with her Ladyship at *Dunmain*, and went with her the Day of the Separation in a Four-wheel Chair and a Pair of Horses to Captain *Butler*'s to *Ross*, which happened upon a *Sunday*, and that they lived at *Ross* above four Years, and that Lord and Lady *Altham* never came or met together afterwards; that the Servants when she went down first to *Dunmain*, were, *Taylor* the Steward, *Rolph* the Butler, *Setwright* the House-keeper, *Michael* the Cook, *Juggy Landy*, the Kitchen-Wench, under the Cook;——said, when she went there she saw the Kitchen-Wench with Child; that the Witness said to the House-keeper, what, you have a Maid with Child? that the House-keeper said, yea, and that she was with Child by Lord *Altham*, his Brother, several others, and the Dog-boy; and soon after *Juggy Landy* was turned away, and brought to Bed, at her Father's House; that when the Witness heard of it she desired the Coachman's Wife to go to *Juggy*, and bring the Child to a Gate, that she might see it; and accordingly *Juggy* brought the Child there, but she did not discern any Dress on it but a clean Neck-cloth, which the Witness gave *Juggy* before, and the Child was in a clean Dress; and her Reason for desiring to see the Child was, to see who it was like, and also her Reason for ordering the Child to be brought to the Gate, and not to the House, was, that Lady *Altham* should not see it; said, that no Child was born, or christened at *Dunmain*-

House

House during the Time she was there, nor had Lady *Altham* ever any Child to her Knowledge; said, that Lady *Altham* went up Stairs one Day at *Dunmain* a crying, the Witness asked her Ladyship what was the Matter, and her Ladyship made Answer and said, that Mr. *Annesley* that Brute wished I should never have a Child, on which her Ladyship said, she wished she could have a Child if she was to die the next Moment after, and that Quarrel was some short Time after their going down to *Dunmain*; on which Mr. *Annesley* left the House, and was not admitted to the Table after.

She then said she was at *Wexford* Assizes with Lord and Lady *Altham*, that her Ladyship was in the Court, for that her Ladyship said to the Witness, how well Mr. *Masterson* had pleaded his own Cause; that the Assizes of *Wexford* was in the Spring, for that they came to *Dublin* the *May* after the Assizes, for they were in Town before King *George*'s Birth Day, and that Lord and Lady *Altham* and the Witness went to Mr. *Annesley*'s Lodgings to see the Fire-Works; said, when they went to *Wexford*, that Lady *Altham* and Mrs. *Giffard* went in the Chariot; that his Lordship, the Witness, *Ralph* and Miss *Giffard*'s Sister, and several others rode; said, she knew the Reason of the Separation, that Lord *Altham* the Night before they parted, his Lordship said to his Lady that he would go abroad the next Day, her Ladyship said he should not, for she should be ready without him; that the next Morning the Witness waked with a Noise; she got up and his Lordship said to the Witness that Lady *Altham* must go away, and that one *Wellman* was with him; that her Ladyship said she would not go without her Cloaths and Things, and that she would write over to Lord *Hartertham*, but he would not permit it; that the Chaise and two Horses were prepared for her Ladyship and the Witness, that they went away to *Ross*, to Mr. *Butler*'s; and there was no body at home but the Servants, and that Captain *Butler* came home the next Day; said, that no Child or any other Person took Leave of her Ladyship, nor never saw any Child with her at *Ross*; nor did she

know one *Edward Lutwith*, a Shoe-maker there, nor any Shoe-maker her Ladyſhip had, nor of any Shoes ſhe had made, nor never had any Shoes made for any Boy, nor white Damaſk Shoes made for her Ladyſhip; ſaid, that *Joan Laſſan* lived at *Dunmain* three or four Months before the Separation, and that her Buſineſs was to help the Laundry Maid to waſh; that ſhe did not Dry-nurſe, nor had any Child to dry-nurſe there; ſaid, that after her Lady left *Roſs* they came to *Dublin*, and lodged at one *Cavenagh*'s in *Stable-lane*, near *Mary's-lane*, but how long they were there ſhe could not remember; afterwards they went to lodge at Mr. *King*'s the Apothecary in *Charles-ſtreet*, but how long they were there ſhe knew not; from thence they went to *Taſſ's-Square* in *Mountrath-ſtreet*, to Mr. *Mullen*'s, and from thence they went to *England* in *September* 1724, where they ſtaid 'till her Ladyſhip's Death.

She then ſaid, ſhe went ſome where on the Key to look for Lodgings before they went to lodge at Mr. *King*'s, but the Name of the Perſon to whom ſhe went, ſhe knew not, but gave her a Piſtole Earneſt; and that afterwards on Application to the Perſon, and informing her, that the Lodging was not fit for her Ladyſhip, the Perſon returned back the Piſtole; that her Ladyſhip, never ſaw that Woman to her Knowledge, or ſpoke to her Ladyſhip any Thing about it; ſaid, another Perſon went with the Witneſs to take the Lodgings; and that no Boy, or any other Perſon went to Lady *Altham* in *Stable-lane*, and never knew or heard any Thing of the Boy, but ſaid, ſhe heard that Lord *Altham* took the Boy that *Joan Landy* had; ſaid, that on the Death of Lord *Altham*, the Witneſs received a Letter from Miſs *Mac Mullin* from *Dublin*, dated the 18th of *November* 1727, giving an Account of the Death of his Lordſhip; that as ſoon as ſhe opened the Letter ſhe went up to Lady *Altham*, told her the Contents of the ſaid Letter, and gave the Letter to her Ladyſhip; that her Ladyſhip read it, and made no Reflection thereon, nor ſaid any thing at all on that Account, nor had ſhe any other Account of his Death but that Letter; that her Ladyſhip did not go

in

in Mourning, ſhe being then in Mourning for King *George* I; and farther ſaid, that Lady *Altham* told her both before and after the Death of his Lordſhip, that ſhe was to have no Jointure, as not having either Son or Daughter, and on that Account the Eſtate having gone to the late Earl of *Angleſey* ſhe could have nothing; and concluded with ſaying, that Lord *Altham* never ſent her Ladyſhip any Support, but that her Ladyſhip was ſupported during the Remainder of her Life by the Duke of *Buckingham*.

The Witneſs was then aſked, by the Defendant's Council, whether ſhe knew Mr. *M'Kircher*, and whether ſhe had any and what Diſcourſe with him, and whether he applied to her at any Time, and when and upon what Account?

In Anſwer to which the Witneſs ſaid, ſhe knew Mr. *M'Kircher*, and that on the 13th of *April* 1742, he came to her Houſe in St. *Andrew's Court*, *Holborn*, and told her, he came to enquire of her, if ſhe knew any Thing of Mr. *Anneſley*, or of her living with Lady *Altham*? and thereupon ſhewed her a Liſt of the Servants Names, and her Name at the Top, and other Servants at the Bottom; that the Witneſs heard them read, ſome of whom ſhe knew and ſome ſhe did not know, and among the reſt was the Name of *Joan Laſſan*; on reading the ſaid Name, Mr. *M'Kircher* aſked the Witneſs, if ſhe knew her? The Witneſs ſaid, yes. What can ſhe ſay? ſaid the Witneſs to *M'Kircher*; that Mr. *M'Kircher* anſwered, and ſaid, that *Joan Laſſan* ſaid, that old Parſon *Loyd* chriſtened Lady *Altham*'s Child. At which the Witneſs ſaid, it is ſtrange if my Lady had a Child, that he was not regiſtred in the Pariſh. No, ſaid *M'Kircher*, there is no Entry kept in that Country where he was born, and that if you had been dead, meaning the Witneſs, the Earl of *Angleſey* would loſe his Title and Eſtate, there would be ſuch bloody Swearing.

Council for the Plaintiff. My Lords, what the Witneſs is now giving an Account of, can be of no Evidence againſt the Leſſor of the Plaintiff, it not appearing, that Mr. *M'Kircher* had any Directions from Mr. *Anneſley* to look out for Witneſſes.

Lord Chief Baron. Gentlemen of the Jury, any Thing ſaid by the Agent, without the Directions of the Employer, to his Detriment, ſhall not turn to the Prejudice of the Client.

Council for the Defendant. My Lords, we will aſk the Witneſs one Queſtion as to the Objection made by the Plaintiff's Council, which is, whether Mr. *M'Kircher* had applied to the Witneſs to give Evidence in this Cauſe, or to be Witneſs for the Plaintiff?

Council for the Plaintiff. Aſk the Queſtion, and that Queſtion being aſked, the Witneſs ſaid, that Mr. *M'Kircher* made no Application to her, to be an Evidence in this Cauſe.

Lord Chief Baron. Gentlemen of the Jury, You are not to take any Notice of the Converſation between Mr. *M'Kircher* and the Witneſs.

Council for the Defendant. Witneſs, did you know Mr. *Maurice Anneſley*, or any of his Family?

Witneſs ſaid, ſhe did know him and his Daughters, and that Mrs. *Blake* was one of them.

Council for the Defendant. Witneſs, did you know of any Miſcarriage that Lady *Altham* had, or did you ſee at *Dunmain* what they called a Miſcarriage, or did you tell any Body that Lady *Altham* had miſcarried?

The Witneſs ſaid, ſhe never heard, or ſaw any Miſcarriage that Lady *Altham* had, nor did ſhe tell any Body that her Ladyſhip had miſcarried,——ſaid, ſhe knew one *Catherine* who was married to Mr. *Cormick*, but never had any Converſation with her, nor did ſhe tell *Alice Babe* that there was any good News, and that *Alice Babe* never viſited Lady *Altham*, or put her Hand on her Ladyſhip's Belly, or that the ſaid *Alice* went away from her Ladyſhip's Lodgings at *Dublin* in a Chair.

This

This Witness then said, she never heard Lord *Altham* call his Lady *Moll Sheffield*, but called her *Moll*; said, she saw the Saucers that were indecent, that his Lordship was angry at them, and threw them into the Fire; but that Lady *Altham* was no way frightned thereat, nor sick, or disordered, nor did she call up Mrs. *Brisco* that Night, on the her, nor *Betty Doyle*; that Lady *Altham* never liked *Sutton*, nor did the Witness know or hear that he was sent for to attend her Ladyship for any Disorder that her Ladyship had, nor had her Ladyship any Disorder that occasioned the Stay of *Sutton* at *Dunmain* for a Fortnight; said, she never saw Mrs. *Shields* at *Dunmain*, nor did the Witness send *Redmonds* for her, nor did she know *Brooks*, nor never call'd Mrs. *Brisco* up to Lady *Altham*, nor did she know of her Ladyship's being bled by *Brooks*, and that she did not remember any thing of the Name of *Denis Redmonds*.

This Witness then said, that Mr. *Palliser* was used ill the Day of the Separation; and said, she never complained to Lord *Altham* of any ill Usage he gave his Lady, nor did she say to his Lordship, if he did not leave off frightening his Lady her Ladyship would never have a Child; and further said, she never called Mrs. *Brisco* out of Bed at any Time, in the Night or the Day whereon the Saucers were broke, nor could she tell or remember that *Sutton* was sent for; said, Lord *Altham* told the Witness first of the unhappy Accident between his Lady and Mr. *Palliser*; and concluded with saying, that the Affair of the Saucers was whilst Mrs. *Brisco* was there; and she did not remember that she used to go into the Room at Dinner before the Company left the Room.

Cross Examined.

Said, that on the 4th of *December* 1713, Lord and Lady *Altham* were reconciled at Mr. *Brisco*'s, and did not lodge at Mrs. *Vice*'s but one Day after the Reconciliation, during the Time they were in *Dublin*, but went to *Dunmain*, and arrived there at *Christmas-Eve*; and that they went to *Dublin* about St. *George*'s Day following; that Mrs. *Brisco* went to *Dunmain* before

Queen *Anne* died, and that Lord and Lady *Altham* went to *Dublin* just before the Death of the Queen, and then lodged at Mrs *Vice*'s for a Month or five Weeks, —— went back to *Drumain* after the Death of the Queen, and ſtaid there till towards *May* following; that in *May* 1715, they went to *Dublin* again, lodged at Mrs. *Vice*'s, and Lady *Altham* then ſtaid in *Dublin* for a whole Year, and never lay out of *Dublin*, but that Lord *Altham* would now and then go out of Town, and that Mrs. *Charity Anneſley* viſited Lady *Altham* at Mrs. *Vice*'s; that Lord and Lady *Altham* had a Scuffle, and the Witneſs heard the Noiſe of a Chair in the Room, but did not hear her Ladyſhip ſcream, nor did ſhe know any Perſon by the Name of *Lucas*, or called by that Name, nor ever heard Lord *Altham* call any Perſon by the Name of *Lucas*; that they were then in bed but neither of them got up, but upon another Scuffle his Lordſhip got out of Bed, was going to the Window to call for Mrs. *Lucas*, but her Ladyſhip held him; and then he ſaid he would ſend for Mrs. *Lucas* to know if her Ladyſhip was with Child before he would turn her out of Doors, and did not hear of any Miſcarriage that Time; ſaid, ſhe never had any Converſation with her Lady about taking the Lodgings or giving a Piſtole Earneſt, nor did ſhe ever tell her any Thing about it, and believed no Perſon could go up to her Lady without her Knowledge; ſaid Mr. *Mullen* was with her when ſhe went and took the Lodgings, but could not tell whether ſhe or Mr. *Mullen* went to make the Excuſe for not going to the Lodgings, as the Doctor ſaid the Air was not good for her Ladyſhip; ſaid, that Mr. *Anneſley*'s Lodgings was at the *Quay* facing the *Cuſtom-houſe*, —— that he had a dining Room and Bed-Chamber, and going there turned on the Right-hand over *Eſſex* Bridge, but how far down the *Quay* ſhe knew not, and the Lodgings were up one Pair of Stairs, and the Supper was ſet out in the Bed-Chamber; ſaid that Mrs. *Giffard*'s Siſter was a ſingle Woman, and when they went to *Wexford* they lodged at Captain *Sweeny*'s; that ſhe knew of no particular Trial they went

went there on, but went to hear Trials, and that Lady *Altham* was then in Mourning for the Queen, and did not wear Silver-Silk; ——knew not what Servants attended his Lordship at *Wexford*, nor who dressed him; and that the Discourse about *Joan Landy*'s being with Child was the first Night the Witness went down to *Dunmain*; and then said, it was a Captain's Man Servant that got her with Child, and the next Day it was said, my Lord *Altham*'s and the Dog-boy's; said she never knew that Lady *Blessington* visited Lady *Altham*, but that Mrs. *Pigget* very often visited Lady *Altham* at *Ross*; ——— said, the Day of the Separation before they got to *Ross* it was dark, and believed the People went out to see them as they came into Town, and that they had something to eat at Captain *Butler*'s; said, the next Day after the Quarrel with Captain *Annesley* and Lady *Altham* about his wishing that her Ladyship may never have a Child, that Lady *Altham* sent for him to come to Dinner, he refused it, and left *Dunmain*, and never went there after; said, she saw one Mr. *Huffey* at her own House, but never said to him that the Plaintiff Mr. *Annesley* was very much wronged, nor did she say to him that she knew more of it than any other Person; said, it will be three Years next *January* since she heard first, that Mr. *Annesley* was with Admiral *Vernon*; and that it was the Dutchess of *Buckingham*'s Woman that told her of it; said, that Lady *Altham* was lame when she came to *Dublin*, and that her Lameness was occasioned by a paralytick Disorder, and had lost the Use of her Limbs, but had not the Dead Palsey; and that when her Ladyship went to *London* she lost the Use of her Limbs and could not stand, but was wheeled about in a Chair; said that her Disorder began at *Ross*.

She was then ask'd, if she had never heard Lady *Altham* had had a Child, to which she replied, that there was a Report of Lady *Altham*'s having a Child before she went to live with her Ladyship, but no Report of her having a Child after she went to live with her; and that her Ladyship enjoy'd her Understanding and all her

her Senses, and was able to manage all her own Affairs to the Day before she died; said the Maintenance of one hundred Pounds a Year allowed Lady *Altham* was to cease on the Death of Lord *Altham*; that the Duke of *Buckingham* died before Lord *Altham*, and by his Will added forty Pounds a Year to the Interest of Sixty Pounds a Year which Lady *Altham* had, to make up 100 l. a Year, which Sum the Dutchess of *Buckingham* gave Lady *Altham* during her Life; that the Duke of *Buckingham* died before Lady *Altham* left *Ross* or went for *England*, and that the Duke died before Lord *Altham*; said, she is not a Washer-Woman, but gets an honest Livelyhood; that her Daughter within these two Years had the Interest of Seven hundred Pounds left her, and that they lived on that, and by Plain-Work.

After the Examination of this Witness, the Court adjourned to the next Morning at Nine of the Clock, pursuant to the Consent of the Parties.

The Eighth Day of the TRIAL.

Saturday, November 19, 1743.

THE Court having met according to Adjournment, and being sat, and the Jury called over, they severally appeard in the Jury Box, and being seated together:

Court. Gentlemen of Council with the Earl of *Anglesey* proceed.

Council

Counsel for the Defendant. My Lords, we will now produce Alderman *Robert King*, at whose House Lady *Altham* lodged in *Dublin*, who frequently conversed with her Ladyship, and to whom she never mentioned that she had a Child, tho' her Ladyship talked to him greatly of her Misfortunes.

Fourteenth Witness. *Robert King*, Alderman, who being sworn and examined, said, that he knew the late Lady *Altham*, and that she lodged at his House in the Year 1725 for about thirteen or fourteen Months, during which Time she dieted there; and a Maid-Servant named *Heath*; that her Ladyship almost every Day dined at his Table, and frequently talked to him about her Ladyship's Family and Misfortunes, and believed, from the frequent Conversation she had with him, that if her Ladyship had a Child, or a Son, she would have told him, and that her Ladyship never told him, nor did he ever hear her Ladyship say that she had a Son.

Cross Examined.

Said, that he never heard Lady *Altham* say any thing about her having, or not having a Child; that her Ladyship had a Disorder, and that she could not stir, being weak in her Limbs; that Mrs. *Heath* dined at Table, and behaved very discreet, and bore a good Character; that her Ladyship's Disorder was paralytick, but did not impair her Understanding, and never saw any Child come to her Ladyship.

Council for the Defendant. My Lords, we will now produce *Elizabeth Molloy*, who was a Servant in Lord *Altham*'s House, who says, that Lady *Altham* had no Child, and of Lord *Altham*'s Application to this Witness to Dry-nurse *Juggy Landy*'s Son,—and that she never heard in the Country that Lady *Altham* had a Child, nor that there were Christning or Rejoicing at *Dunmain*, on her Ladyship's being brought to Bed of a Son, as is pretended on the Part of the Plaintiff.

Fifteenth Witness. *Elizabeth Molloy*, who being sworn and examined, her Maiden Name was *Doyle*; that she lived with Lady *Altham* at *Dunmain* and in *Dublin* about thirty Years ago, and to the best of her Knowledge her

Ladyship came to *Dunmain* on one *Christmat-Eve*, Witness being then at *Dunmain*, and served as a Laundry-Maid, that she lived there a Year and a Quarter, and was married in the Service, and afterwards removed with her Husband three Quarters of a Mile from *Dunmain*, where she lived for Eleven Years; said, that Lord *Altham* applied to her to Dry-nurse *Juggy Landy*'s Son, that his Lordship came to her when he was a Hunting, and that it was after the Separation, and after Lady *Altham* had left *Dunmain*; that his Lordship asked her whether she would Dry-nurse *Juggy Landy*'s Child? The Witness said, she would not; said, she saw a Child called *Juggy Landy*'s Child when a Year old, and saw her with Child, and that the said *Juggy* was brought to Bed in *May* after the Witness went to *Dunmain*, and that it was near three Years after when his Lordship applied to her to Dry-nurse it; that she could not call to Mind when Lord and Lady *Altham* parted, that his Lordship said she must take the Child into her own House to Dry-nurse it, but knew not how old the Child was when the Application was made to her; said, they Dry-nurse Children till Six Years old, but could not tell what *Christmas* Lady *Altham* went to *Dunmain*; said, that whilst she lived at *Dunmain*, she never knew that Lady *Altham* was delivered of a Child, dead or alive, nor ever heard in the Country that her Ladyship had a Child, but heard her Ladyship wish she had a Son or Daughter, and never heard that any Child was christned at *Dunmain*, nor of any Rejoicings there on the Birth of any Child.

Cross Examined.

Said, she never heard Lady *Altham* say, or wish, she had a Son or Daughter, but was told so, but knew not who told her, but that the Witness wished as much that her Ladyship had a Child, as the Witness did wish that she herself had a Child; could not tell what Time of the Year it was or when his Lordship applied to her to dry-nurse the Child, nor did she ever see the Child but once, and that she saw a Child ten Years old dry-nursed; knew not *Mathias Reily*, but knows Mrs. *Welman* at *Ross*, nor did she know *David Hosking*,

or

or any of that Name, nor did she tell any Person of that Name that Lady *Altham* had a Child; said, that she saw her Ladyship in *Ross* and in *Dublin* after she left *Dunmain*; that she was first married to one *Byrne*, and now to *Milley*; said, she would not then nurse for any Body, having no Occasion so to do, her Husband then held Land at fifteen or sixteen Pounds a Year's Rent.

Sixteenth Witness, *Martin Knesfe*, Smith and Farrier, who being sworn and examined, said, he knows the Lands and House of *Dunmain*, and lived there as Smith and Farrier to Lord *Altham* for a Year before his Lady went down there, and continued his Smith during the Time the Lord and Lady lived together, except for about three Months that the Witness was sick, during which Time he lived at *Ross*, and being no Scholar he could not tell what Time of the Year he was sick, but to the best of his Knowledge Lady *Altham* was at *Dunmain* above a Year before he fell sick, that after his Sickness he went back to *Dunmain* and lived there half a Year before her Ladyship left the House; said, it was a Day or two before *Christmas* that her Ladyship came first to *Dunmain*, and said there going backwards and forwards for three Years, and from *Christmas* to *Candlemas*, that he never saw a Child there but the Child that *Juggy Landy* had; and saw him there in a Month or six Weeks after the Separation, and that the Child was taken into the House to live, that he lived with his Lordship three Years, and saw *Juggy Landy* with Child; said the principal Servants in the House were, *Anthony Dwyer*, who attended his Lordship, Mr. *Taylor*, and that when *Dwyer* left his Lordship, one *Kennedy* lived with his Lordship in the County of *Kildare*; said, he could not be positive whether *Dwyer* or *Kennedy* was Lord *Altham*'s Servant at the Time that the Child was taken into the House, but is sure it was one or the other; that he was told in the House that *Juggy Landy* was brought to bed, and that he afterwards saw the Child in her Arms twenty times about the House, and at his Forge at the Back of the House in the Yard when

his Lordship was abroad, in order to beg Meat and Drink, and that he never knew or saw that *Juggy Landy* ever nursed or saw her suckling Child but her own; said, it was a Dairy Maid that took Care of *Juggy Landy*'s Child after he was taken into the House, and they called her Black *Kate*; said he saw the same Child at *Kinna*, in the County of *Kildare*, and afterwards amongst the Boys of the College, on *College-Green* in *Dublin*, that the Boys and he were in a bad Condition, and believed his Lordship then lived in *Proper-Lane*, and that he is the very same Boy he saw at *Kinna*, but that he did not know *Carrickduff*, and to the best of his Knowledge when he left *Dunmain*, the Boy was four or five Years old, but had not seen him since he saw him in *Dublin*, and does not think that he should now know him if he should see him; said, that that Boy was reputed a Bastard of *Juggy Landy*'s by Lord *Altham*, and was so reputed amongst the Servants; that he was present when his Lordship gave Directions to his Servants both at *Dunmain* and *Kinna*, that if *Juggy Landy*, the Bastard's Mother, should come near the House, to set the Dogs at her; and that his Lordship swore, *God damn the Bastard, he has too much of his Mother Juggy Landy's Blood in him to be good*; that she was Kitchen Maid in the House of *Dunmain*, and left it being big with Child, but could not tell whether she was turned away; said, he never knew or heard of a Christening being at the House; that Mrs. *Heath* was Lady *Altham*'s Woman all that Time, and she left *Dunmain* with her Lady, that he was in the House the Day of the Separation, which was on a *Sunday*, and was present when Lord *Altham* called all the Servants up under Pretence of going to dine at one *Minnit*'s, but that his Lordship did not go far, but soon returned; that he met his Lordship going up Stairs with a drawn Sword, at which the Witness cried out, what is the Matter? his Lordship said, never heed, come along, and that soon after he heard a Screak; said that he and the Coachman attended Lady *Altham* when her Lady-

ship

ship and her Maid went away in a four Wheel Chair, and that nobody came to take Leave of her Ladyship, nor did he see any Child, but that the Child afterwards brought home was then at Nurse with *Fuggy Lundy* his Mother, but could not recollect when *Fuggy Lundy*'s Bastard by Lord *Altham* was brought into the House; said, that *Joan Laffin* lived in the House both before and after her Ladyship parted, and was in the Station of either Laundry or Dairy Maid, and that Mr. *Giffard*, his Lady, *William Elms* and others used to visit Lord *Altham*, never knew or saw *Joan Laffin* take care of the Child, but that Black *Kate* took care of him, and that the Child lay with her, and that *Joan Laffin* did not take care of the Child.

Cross Examined.

Said, that he went to *Kinna* to live with Lord *Altham*, and has lived there ever since, could not tell how many Years it is, but believed it was 20 or 21 Years since; that his Lordship left it about a Year after and went to live at *Ballyhack*, but could not recollect whether Lord *Altham* lived at *Dunmain* a Year, or any other particular Time after the Separation; remembered his Lordship went to *Dublin* after the Separation, and returned to *Dunmain* again, and that the Child was taken into the House before ever his Lordship left the Country after the Separation, and the Child was quite bare of Cloaths, when he came into the House, but some old Things were soon made up for him, and believed it was Silk, but knows not the Colour; that his Lordship lived a Year at *Kinna* before the Witness parted with him, and the Child was then about five Years old, and believed if he was not under that Age he was not over; that the Boy was very meanly cloathed afterwards, during the Time the Witness was there, and being asked what he meant by the Word, *Meanly cloathed*, he answered, *Indifferently cloathed*; that the Boy went to School to one *Mahony* near the Road of *Kildare*, and there was a Habit made for him of Slate-coloured Frize, and that his Cloaths at *Dunmain* was a Silk Habit, made out of an old Night-gown, but that he did not wear them at *Kinna*; and said that the Cloaths the Child wore at *Dunmain* were better than

than them he wore at *Kinna*, and that the Frize Cloaths was made for him at *Kinna*, that the next Coat that was made for the Child was a Scarlet Coat made out of an old Coat of Lord *Altham's*, and saw the Child dressed in that Suit at *Kinna*, and by the same Token he beshit his Breeches.

Said, that his Lordship gave Directions to all the Servants in the House to whip the Child when he did amiss, and that he heard his Lordship give the same Directions when his Mother *Juggy Landy* came there to see him; and that his Lordship said he would break any of the Servants Heads that should let the Child come near *Juggy Landy*, for that the Child would never be good, he having so much of the Blood of his Mother *Juggy Landy* in him, and said the same openly in the Kitchen to all the Servants; that the Child would go up and down the House, and saw the Lord *Altham* and the Child in the Parlour together, but his Lordship was not fond of the Child; that he never saw the Child eat with his Lordship tho' he often saw his Lordship at Dinner and Supper; that he never attended his Lordship at Dinner or Supper, but he was as free with his Lordship as any of the Servants in the House: His Reason for seeing his Lordship at Dinner and Supper was, that he went sometimes for Money to buy Iron, and about other Things, and used to go to his Lordship at any Time, unless when his Lordship was in Company, but never saw the Child sit at Table; said, did not know when *Kennedy* came to live with Lord *Altham*, nor did he live with his Lordship when he saw the Child on *College-Green*; that he knows Mr. *Misset* very well, and to his Knowledge has never seen him at *Kinna*, nor had he any Knowledge of him there.

Then the Witness said that he often went a Hunting with his Lordship, but did not remember to see Mr. *Misset* with his Lordship; that when he saw the Boy at *College-Green*, the Boy was about seven or eight Years of Age, and that he was about five Years old when he left *Kinna*, and that he should know the Boy amongst five Thousand, and that the Boy wore his own Hair; that he knew the two *John Fitzgeralds*, and had some

Discourse

Diſcourſe with *long John Fitzgerald*, but never told the ſaid *John Fitzgerald* that Mr. *Jones* gave the Witneſs Money or Cloaths, or told him that Lady *Altham* had a Child; ſaid, a Man from the County of *Wexford* called at his Shop, and that he had ſome Diſcourſe with that Man about this Affair, and bid the Perſon to tell Mr. *Deringſey*, that the Witneſs was living, and believed could do the Lord *Angleſey* Service; ſaid, he heard above a Year ago, and reported in the whole County of *Kildare*, that *Jemmy Annesley* was come over to ſue the Earl of *Angleſey* for the Eſtate; ſaid, the Perſon's Name to whom he told, that he could do Service to the Earl of *Angleſey*, was *Kneeſe*; ſaid, he ſaw the Child in Bed with Black *Kate*, that *Joan Laffan* took little Care of him, and never ſaw the Child in a Hat, Feather or Scarlet Cloaths at *Dunmain*; that Lord *Altham* went backwards and forwards to *Ballyback* for twelve Months and better after he left *Dunmain*; that after his Lordſhip left *Ballyback* he went to *Kinna*, but his Hounds and Horſes were at *Ballyſhannon*, at the *Blackamoore*'s Head; ſaid, the Servants at *Kinna* were, *Harry Archbold*, one *Price*, one *Rice*, the Coachman, and *Martin Kneeſe* the Smith; ſaid, he was a Year at *Kinna* before the Child came there, nor doth he know who brought him, nor whether it was *Juggy Landy*, but ſaw her come to ſee the Child, and that he ſaw *Joan Laffan* there and his Lordſhip ſcolding at her for ſtealing a Bed, but did not know whether ſhe come with the Child there; that he did not know one *Francis Mulhall* a Taylor, but believed there was ſuch a Man at *Kilcallen* Bridge, but did not know whether he ſaw *Michael* the Taylor at *Kinna*, and was not ſure whether the Child's Cloaths were Camblet or not, but that he went to School to one *John Mahony*'s near the Road, a little Cabin near a Ditch Side, and that the Child dieted and lodged at Lord *Altham*'s Houſe, and did not know that one *Connor* kept a School there.

He farther ſaid, the Boy was a good clean ſkinned Boy, with Flaxen Hair, but never ſaw him naked; that he did not know when Lord *Altham* lived in

Proper

Proper-Lane, but was told his Lordship lived there when the Witness saw the Boy at *College Green*; said that he heard his Lordship say to the Child several Times in a Passion, *God damn him, he has too much of his Mother's Blood*, Juggy Landy, *in him*, and ordered *Price* his Servant to whip him; that the Child was always treated amongst the Servants as the Bastard Child of Lord *Altham*, but how he was treated in his Lordship's Company, or by his Company, he did not know, nor how he was treated by or amongst the Gentlemen of the Country, never knowing that any of them took Notice of the Child, and as God was his Judge he never saw the Child introduced to his Knowledge to any of the Gentlemen in the Country! For that the Child eat with the Servants, never saw him ride out with his Lordship, nor was the Child able, during the Time the Witness lived with his Lordship, to ride; said what the Child did when the Servants were directed to beat him was, that he would go to the Cook at the Fire, and throw down the Meat, Spit and all; and that thereupon his Lordship gave Directions to *Price* the Cook in the Kitchen to correct the Child; said he never saw Mr. *Jeffery Paul* that lived at *Ballyshannon*, nor did he ever see him at *Kinna*, to his Knowledge, nor did he know that Lord *Altham* went to visit Mrs. *Annesley* at *Ballyshannon*, nor did he ever see the Boy in Company with any Gentlemen in that Country; that *Juggy Landy* lived at a Cabin at *Dunmain* when the Child was sent to *Kinna*, and heard afterwards that the House was pulled down; said, he and *William Elms* were together when his Lordship gave Directions to set the Dogs at *Joan Landy* for coming near the House, and that he often heard his Lordship say, that he would rather give Five hundred Pounds he had had that Child by an *English* Woman, and not by *Juggy Landy*, but that he knew not for what Reason his Lordship gave such Directions against *Juggy Landy*; that his Lordship called the Boy *Jemmy Landy*, but he was called in the House among the Servants *Jemmy Annesley*, as being the Bastard-Son of Lord *Altham*, and that neither he or any

of

of the Servants ever went to the School with the Boy.

And the Witneſs having withdrawn from off the Table, he was called back, and being aſked by the Court, how long he lived at *Kinna?* The Witneſs anſwered a Year and a Half.

Seventeenth Witneſs. *Anne Coffee.* When ſhe came to the Book ſhe kiſs'd her Thumb, but afterwards the Oath being tendered her again ſhe kiſs'd the Book, and being examined, ſaid, that ſhe knew both Lord and Lady *Altham* when they lived at *Dunmain*; that the Witneſs lived at a Place called *Clear*, before they went thither; —— while they were there, and after they left it, and that during that Time ſhe never once heard that her Ladyſhip had a Child there; that ſhe never heard her Ladyſhip ſay any thing about it, and that ſhe held Acquaintance with *Elizabeth Molloy* and *Anthony Dwyer*, and *Juggy Landy* the Kitchenmaid, who were in Lord *Altham*'s Service before her Ladyſhip came thither, but never any one of them ſaid, that Lady *Altham* had a Child; ſaid, ſhe ſaw *Juggy Landy* dance on St. *George*'s Day, and the Servants took Notice of her big Belly, and that on St. *George*'s Day after her Ladyſhip came into the Country, that Day being a particular Day of Merriment; —— ſaid, ſhe ſaw *Juggy Landy*'s Child the Summer after, at a Cabin where the Witneſs's Father was cutting Turf; that ſhe ſaw *Juggy Landy* in the Cabin ſuckling the Child, and that it was commonly reported to be Lord *Altham*'s Child; and that ſhe ſaw it again two or three Years after.

She then ſaid that the Child went to School to *Patrick Furlong*, who lived half a Mile from the Houſe, at a Place called *Ferryrath*, and that the Child went from the Houſe of *Dunmain* to the ſaid *Furlong*'s after the Separation of Lord and Lady *Altham*; that ſhe ſaw *Patrick Furlong* this Day; that ſhe ſaw Lord *Altham* ride by the School, and aſk at the Door, where was *Jemmy?* That *Furlong* anſwered, He is here. Whereupon his

Lordship said, *I will horse-whip you, if you ever let the Child see that Whore his Mother* Juggy Landy, *for that he will be cross and cry, and want to go along with her*; ——said, she was coming from the Bog that Day, and that she heard them Words expressed when she called at the School to see her Sister, who then went to that School, but that she never saw the Child at *Dunmain*.

Cross Examined.

Said, she never was at the School before, and her Sister was very young; that she is now about thirty-four Years old;——could not tell whether she ever saw the Child but once at the Breast, and that she did not see it after for near three Years; that she cannot, nor will not for the World swear, that it is the same Child that she saw suck *Juggy Landy*, that she saw at School, but was told it was; said, that she never heard that *Juggy Landy* had any Child but the one she had by Lord *Altham*, and never heard that the Child was dead; that she knows Father *Downs*, and saw him this Day; that he is a Priest, but never said that he would give her Absolution for swearing in this Cause.

Eighteenth Witness. *William Rowles*, Farmer, who being sworn and examined, said, he knew the late Lord and Lady *Altham*, and was well acquainted with them, that they lived at *Dunmain*, and that he lived in the Parish of *Dunmore*, a Mile from *Dunmain*, and that he lived at the same Place at the Time of the Separation; said, he never heard that Lady *Altham* ever had a Child, nor was it ever reported in the Country that she had one; that he did not know how often he was at *Dunmain*, but used to go a Hunting with his Lordship, and sometimes sold Corn, Pigs and Beef to Lord *Altham* at his House, and that his Lordship was Godfather to his Child; said, that having Discourse with *Juggy Landy* about her having a Child, she said, it was Lord *Altham*'s; that he told his Lordship of it, who said it was so; but said, that he never saw *Juggy Landy* with the Child; that his Lordship told him, before his Lady came into the Country, that he (his Lordship) never had a Child, nor that he never expected to have any by his Lady, but that he never heard

heard his Lordſhip ſay ſo after his Lady came to *Dunmain*, and that after the Separation *Juggy Landy*'s Child was brought home to *Dunmain*; ſaid, that one Day his Lordſhip, the Witneſs, and the Child, were in the Kitchen; that the Witneſs ſaid to his Lordſhip, that *Juggy Landy* did not belie his Lordſhip, for that the Child was like his Lordſhip about the Eyes, and that his Lordſhip anſwered, that he believed ſo too.

Croſs Examined.

Said, that at the Time he ſpoke the above Words to his Lordſhip the Child was 3 or 4 Years old, but that he never heard the Child ſpeak either *Iriſh* or *Engliſh*, and that to the beſt of his Knowledge his Lordſhip had very black Eyebrows, and grey Eyes; ſays, that the Child did then favour his Lordſhip about the Eyes. His Reaſon for ſaying ſo is, becauſe that they were then Face to Face; that the Child's Eyebrows were like his Lordſhip's, and the Child then had on a white Linen Cap; that he never ſpoke to his Lordſhip before about the Child, nor did he know any thing of it, till *Juggy Landy* told him; that he never ſaw the Child afterwards, nor did he know what became of him; that he never before talked to his Lordſhip about his Affairs, and ſaid that it was before Lady *Altham* came to *Dunmain* that *Juggy Landy* told him that the Child ſhe was with Child of was Lord *Altham*'s, and that he told my Lord ſo, and that ſhe then lived in the Houſe at *Dunmain*.

Council for the Defendant. My Lords, we will now produce Mr. *Downs* the Prieſt, who chriſtned the Child of *Joan Landy*, and who will give your Lordſhips and the Jury a full Account of this whole Affair, and inform the Court that Lady *Altham* never had a Child.

Nineteenth Witneſs. *Michael Downs*, who being ſworn to the *Voire dire*, anſwered the ſeveral Queſtions, and being ſworn in chief, and examined, ſaid, that he knew both Lord and Lady *Altham* deceaſed, and knew them at *Dunmain*; that his Lordſhip lived there a Year and an half before his Lady came thither, and that they lived together there three Years and ſome few Months,

and that the Witneſs then and now lives within a Mile of *Dunmain*, and uſed to go there ſometimes to ſee his Lordſhip, once a Week or Fortnight, and uſed to dine with the Lord and Lady *Altham* at their Table; that he has been a Regiſter'd Prieſt Forty-three Years, and that Lord and Lady *Altham* uſed to be at his Houſe; ſaid, that he never knew or heard that her Ladyſhip had a Child, and that the common Report in the Country was, That Lady *Altham* never had a Child; that he is ſure that her Ladyſhip never could have had a Child without his knowing of it, for that *Dunmain* is Part of his Pariſh; ſaid, his Lordſhip uſed to call on him to take a Drink with him, and that the Witneſs being free with his Lordſhip, he uſed to wiſh that his Lordſhip had a Child, and ſays, that he is ſure that if Lady *Altham* had a Child, he believed his Lordſhip would have told him of it; and that he the Witneſs is now and was then Pariſh-Prieſt, ſo he muſt have heard if his Lordſhip had a Child, having an Account of all the Children born in his Pariſh; that about a Year and a half after, her Ladyſhip went to *Dunmain*, his Lordſhip ſaid to him, that he wiſhed he had a Child; ſaid, Mrs. *Heath* was in the Houſe, and *Juggy Landy*, a Kitchen-Maid, ſaw *Juggy* there, and ſaw that ſhe was with Child, and ſays, that ſhe was ſoon after turned out of the Houſe when Lady *Altham* came Home; that Lord *Altham* gave a Ball (or a Dancing) to his Domeſticks and Neighbours, and that he ſaw *Juggy Landy* dance there with Child, and that other Perſons preſent, as well as the Witneſs, took Notice of her being with Child; that thereupon *Juggy Landy* was turn'd away.

This Witneſs then ſaid, that about *May* 1714, he went to a Cabin where *Juggy Landy* was, and ſhe was then brought to Bed, and that afterwards her Mother came to him with the Child, and deſired him to chriſten the Child at *David Barry*'s Houſe at *Naſh*, which was a Fortnight after the Child was born; that his Lordſhip, ſome Time after, aſked the Witneſs, if he had made a Chriſtian of the Child? The Witneſs ſaid, He had; that his Lordſhip mentioned only *Joan Landy*'s Child whom he, the Witneſs, had chriſtened; that the Witneſs ſaid,

he

he had given it a Name; and that his Lordship said, It was very well. That the Witness said, he desired no Retribution. At which his Lordship laughed, and said, he should not do so;—That his Lordship asked him, what Name the Child was christened by; the Witness said, *James*; that it was the Grandmother that gave him that Name, and told the Witness that it was his Lordship that desired it should be christened *James Annesley*, and believed that his Lordship ask'd him, what Name he called the Child? that the Witness answered, *James*, and that the Sponsors were the Grandfather and Grandmother, and that no others were then present at the Time of the Christening.

He then said, that *Juggy* was an unmarried Woman when she had the Child; that he never saw the Child from that Time 'till it was Three or Four Years old, and that it was after Lady *Altham* left *Dunmain*, but that he never saw the Child there before her Ladyship left it; said, he saw the Child at *Dunmain* after Lady *Altham* left it; that once, when he was visiting Lord *Altham*, he went with his Lordship into the Parlour, where the Child was sitting; that his Lordship said to the Child, *You Son of a Whore, why don't you get up and make a Bow to him that made you a Christian?* That he saw the Child at *Furlong*'s School; said, that he kept a Register of legitimate Children, but not of illegitimate ones; that he did not register *James Landy*, because he was a merry-begotten one, being gotten in Sin, though he made a Christian of him.

Said, that if that Child, or any other Child had been buried at that Church, he must and should have heard of it, and that he keeps a Register of legitimate Children buried, but not of illegitimate; believed the Maiden Name of *Juggy Landy*'s Mother was *Magrath*.

Cross Examined.

Said, he is sure he visited Lord and Lady *Altham* every two Months whilst they were in the Country, and believed that they might be there Three Months together; that he did not visit at Lord *Altham*'s, and if he had, perhaps, he might not have seen them.

Said, he could not tell, whether Lord and Lady *Altham*

tham were at Home, either at *Michaelmas* or *Midſummer* before the Separation; and ſaid, that her Ladyſhip was in *Dublin* the firſt *Chriſtmas* after the *Chriſtmas-Day* that ſhe came Home to *Dunmain*.

Said, that on the Twenty-ſecond Day of *April* 1715, Lord and Lady *Altham* went to the Aſſizes of *Wexford*, to hear the Trial of ſeveral Gentlemen who were capitally indicted for enliſting Men for the Service of the Pretender; that his Lordſhip ſaw the Witneſs there, and asked him, if he was in any Danger of Trouble? If he was, that his Lordſhip would be bound for him; that the next Day the Witneſs left *Wexford*, which was the Day that the Great Eclipſe happened on, and that Lord and Lady *Altham* afterwards went to *Dublin*; that *Dunmain* is the Eſtate of *Cæſar Colclough*, and that all the Pariſh belongs to him, and that it was let to *Aaron Lambert*.

Said, that *Joan Leady*'s Mother told him, that Lord *Altham* would have the Child chriſten'd by the Parſon of the Pariſh, and that afterwards ſhe brought the Child to him to be chriſten'd, but that ſhe did not then tell him, that the Lord *Altham* had directed her that the Child ſhould be chriſten'd by him, but that ſhe told him, that his Lordſhip had directed the Child to be called *James*. Upon which the Witneſs ſaid, What, *James Anneſley*?

Said, that he never asked Lord *Altham* about the Child before the Separation, and that the firſt Time he ſaw the Child after he chriſten'd him, was about the Firſt of *July*, or the Beginning of *Auguſt*;——and that the firſt Time he ſaw the Child at Lord *Altham*'s Houſe, he had a green Coat, a little white Cloak and a Silver-lac'd Hat on, and believed that the Coat was Stuff, becauſe it was Summer;——ſaid, he was ſure that the Coat was not Silk, that the Coat was buttoned like a Frock; that the Child was ſitting above Stairs in the Parlour, and no-body with him; that the Witneſs walk'd with his Lordſhip in the Garden, and on his Return found the Child in the ſame Place; that the Words his Lordſhip made uſe of to the Child was: *What! you Son of a Whore, why don't you get up and make a Bow to the*

the Gentleman that made you a Christian; that the Child got up, made a Sort of a Bow, but spoke not a Word, but mutter'd something which he did not understand: On which the Witness said, *God bless him*;——said, that he did not know that any other Words were said to the Child, either in *Irish* or in *English*; said, he knew nothing of the Ball where *Juggy Landy* was dancing, but was told of it, and that the Ball was when Lady *Altham* was in the Country, and believed he was told that it was of *St. George*'s Day; that he has kept no Register these twenty Years, and keeps no Registry of Protestant Children; that he never buried a Child of *Joan Landy*'s, but heard that *Joan Landy* had a Child that died of the Small Pox, and only heard of it a Year ago, and not before; that he never buried a Child either legitimate or illegitimate of *Joan Landy*'s, but heard that a Child of her's was buried about twenty Years ago.

Said, that he did not know, nor did he take Notice of the Child that he saw, whether he was like Lord *Altham*, nor did he know what Hair he wore, but believed he was a black Child, that he heard Lord *Altham* wish he had a Child, but whether it was before or after the Great Eclipse he knew not; that he came from *Wexford* Assizes the Day before the Eclipse, and that his Place of Abode was distant from *Wexford* Eleven Miles,—that he was bound over, two or three Assizes before, to appear at that Assize, and that Colonel *Edwards* was then Sheriff; that he appeared, and was bound over, the Beginning of that Assizes, to appear the next, by the Order of the Judge, and that he left the Town on the Parole of the Sheriff, but that he did not know, whether it was in the Year 1714, but that he was not well acquainted with Lord *Altham* before the Assizes 1715.

Said, that he did not apply to *Cæsar Colclough*, or any other Gentlemen of that County to befriend him, he having no Need of them.

Said, that he is acquainted with one *Mackey*, a Priest in *Dublin*, but had no Conversation with him, or any other Priest, about the Witness's receiving Money from the Earl of *Anglesey* to be a Witness in this Cause, nor did

did he consult any Body about the Lawfulness of the same, or that he would receive Absolution for the same.

Said, that it is not usual for the People of his Church to bury Children without the Ceremony of the Dead, but poor People usually bury their Children, under the Age of Seven Years, without the Help of a Priest, in Regard they cannot commit Sin, and that poor People bury their Children that die above that Age, when they can't conveniently have a Priest.

Said, that he never made an Affidavit to be sent over to *England* relative to this Affair.

Mr. *Attorney General*. My Lords, give me Leave on the Behalf of the Defendant, to examine this Witness to two or three Questions, to explain the Intention of this Man's Testimony, relative to the Death of *Joan Landy*'s Child, who is said to have died of the Small-Pox.

Court. You may ask him what Questions you think proper.

Mr. *Attorney General*. Witness, do you know that *Juggy Landy* was ever married, and to whom, and when? Or of any Children she had by her Husband, and their Names? Or, if any of them be living, or dead, where they now live, and what became of them?

The Witness said, that, after he had christened *Juggy Landy*'s Child, he married *Juggy* to one *Mac Cormick*, and that he afterwards christened several Children of that Marriage, and that he heard that the Child that died of the Small Pox and was buryed, was a Child that she had by *Mac Cormick* her Husband; that he christened *Mac Cormick*'s Children, but that he did not know any of their Names, but that one *Banks* and several other People of Credit told him, that it was *Mac Cormick*'s Child that died of the Small-Pox, and that the Marriage of *Juggy Landy* with *Mac Cormick*

Cormick was two or three Years after the Separation of Lord and Lady *Altham*.

Council for the Defendant. My Lords, we have now done with this Witness, and beg Leave to call one *Patrick Furlong*, who was a Servant in Lord *Altham*'s Family, who will give your Lordships and the Jury an Account after what Manner this Son of *Joan Landy*'s was treated, that he always was looked upon and reputed the Bastard Son of Lord *Altham*, and not otherwise; and that he went to his School, this Witness keeping a School for some Time.

Court. Call him.

Twentieth Witness, *Patrick Furlong*, who being sworn and examined, said, that he was employed as a Fowler to Lord *Altham* for five Years, that he had a Farm and kept a School near the Pound at *Dunmain*, and that his Scholars were *Mary Grove*, *Nancy Grove*, and some Boys whose Names he did not remember, and had a Son of *Joan Landy*'s called *Jemmy*, and that his Lordship sent that Boy to his School, when he was three Years and a Half old, about two Months after the Separation, and the Boy staid with him at School five or six Months, that his Lordship called on him three or four Times as he was going a Hunting, and desired the Witness not to let *Juggy Landy*, the Child's Mother, see the Child, for that if he did, his Lordship would be very angry with him, and that his Lordship gave him the like Charge one Evening coming from the School; said, he saw *Joan Landy* last *February* was Twelve Months; that the Child's Cloaths were red, a black Fustian for a common Coat, and a little Habit of dark Colour, like Brown, but what it was made of he knew not, but that it was not Silk; that the Child wore a white Cap whilst he was at his School, and was deemed Lord *Altham*'s Child by *Joan Landy*; that one *Henderson*, a Quaker, applied to him to be a Witness

for the Plaintiff in this Cauſe; that he ſaw the Child afterwards in *Roſs*, when he was five or ſix Years old.

Croſs Examined.

Said, the Child ſpoke very ſmart in *Iriſh*, but ſpoke no *Engliſh*, and that he ſaw him two Years after he left his School at *Roſs*, that he never taught the Child to read or write, and that he was ſent to his School only to be a Child amongſt the reſt of the Children; ſaid, he did not know the Colour of Lord *Altham's* Eye-Brows, but that his Lordſhip's was black like the Witneſs's, but that the Child's was not black, and that all the Children when they went firſt to his School, ſpoke *Iriſh*; that the Child's Hair was brown, and that the Witneſs would bring the Child backwards and forwards, but ſometimes the Child would walk, and ſometimes the Witneſs would carry him; that he did not know what became of the Child after he ſaw him at *Roſs*; ſaid, the Child did not get much Inſtruction from him at his School, nor was he improv'd in the *Engliſh*, for that he gave over School in the Winter about *September*, and began School again the *January* following; ſaid, he knew Lord *Altham's* Servants, that he knew *Rolph* who could not ſpeak *Iriſh*, but that the reſt of the Servants did.

Council for the Defendant. My Lords, the next Witneſs we ſhall call is *Arthur Herd*, another Servant in the Family, who will give an Account of the Plaintiff Mr. *Anneſley* whom he is, what he was deemed and looked upon in the Family, and the Treatment ſhewed to him by Lord *Altham*.

Court. Call your Witneſs.

Twenty-firſt Witneſs. *Arthur Herd*, being ſworn to the *Voire dire*; ſaid, he ſhould neither gain nor loſe by the Event of the Cauſe, that he got two Guineas and a Piſtole to bear his Charge from *Enniſcorthy* to *Dublin*, and that he is

a

a Whip-maker by Trade; and being sworn in Chief, said he lived with late Lord *Altham* in *March* 1720 and 1721, when his Lordship had Tents in the Fields to hunt with; that the Witness being then an Apprentice, went to shave his Lordship one Morning; that his Lordship asked his Name; the Witness answered *Hard*, and thereupon his Lordship invited him to go live with his Lordship as he the Witness was his Lordship's Country Man's Son? the Witness said no, he was not, but I am his Grand Son; that the Manner of the Invitation was thus, his Lordship said to him, *By God, come to live with me, you shall not want a Piece of Money in your Pocket, a Horse to ride on, and a Whore*; that his Lordship's Place of Abode was then at *Carrickduff*, that thereupon the Witness left his Master and went to live with Lord *Altham* in *March* 1721; that when he went to *Carrickduff*, he saw a Child there called *James Annesley*, the natural Son of Lord *Altham* by *Juggy Landy*; that during the Time his Lordship lived at *Carrickduff* the Witness lived with him, and the Child was there all the while, and went to School to one *Straughan*, a Harper, who used to draw Pictures, and taught *Jemmy Annesley* to spell; that Lord *Altham* was visited by several Gentlemen of that Country, and by Captain *Dunbarr*; that the Child's Cloaths were red, being made out of an old turned Coat of Lord *Altham*'s; said, he did not know *Charles Byrne*, Mr. *Cavenagh*, or any of the Neighbours thereabouts, nor did he remember any of them to be there.

Said, the Servants at *Carrickduff* were *John Sweetman*, the Coachman, tho' his Lordship has no Coach, *Neil O Neil*, a Footman, married to *Catharine Caulfield*.

Said, that when his Lordship left *Carrickduff*, he went to live at *Cross-lane*, or *Chevy-lane*, in the City of *Dublin*, and that the Child was brought there, and was known by the Name of *Juggy Landy*'s Son, and went to School over the Water for half a Year; that his Lordship went afterwards to live at *Proper-lane*, and took a House there of Mr. *Simpson*, gave three Shillings and four Pence Earnest, which was afterwards spent at an Ale-

house; that his Lordship, Miss *Gregory*, the Child and the Servants, went there to live; and the Child was there in bad Cloaths; that his Lordship said at *Proper-lane* near twelve Months, and from thence his Lordship went to live at *Inchicore*, near *Blind-Bridge*; said, where the Boy lived in *Proper-lane* his Lordship beat the Boy very severely for pilfering, and said to the Boy, *Yes here's the thieving Blood of the* Landy's *in you, who used to steal my Corn and Sheep*; and that his Lordship finding he could get no good of him, sent the Boy to an orderly House, one Mrs. *Cooper's*, to diet and lodge in *Big Bloody-street*, and knew nothing of the Boy since; that to the best of his Remembrance his Lordship went to live at *Inchicore* in the Year 1724.

Said, he saw that Boy after on the 5th Day of *November* 1742, early on *Monday* Morning; that one *Whelan* came to his Shop at *Enniscorthy*, and told the Witness that he saw him very often at *Dunmain*, and that if the Witness would go with him, the said *Whelan*, to the *Bear Inn*, and speak two Words, the Witness's Fortune would be made; that he promised to go there; and *Whelan* went before him; that when the Witness went to the Inn, he called and asked for the Gentleman that wanted him; that the Witness was sent up Stairs to a little Room, when Mr. *Mac Kircher* asked him, if his Name was not *Herd*, and if he did not know Mr. *James Annesley*? The Witness answered, his Name was *Herd*, and that he did know Mr. *James Annesley*, and should know him, if he met him in *London*; on which Mr. *Mac Kircher* called for Mr. *Annesley*, who came up into the Dining-Room; that the Witness went thither, and Mr. *James Annesley* said to the Witness, you have often made me Fiddles, and other pretty Things, and then Mr. *Annesley* kissed him; that Mr. *Mac Kircher* called for Pen and Ink, sat down and began to write, and thereupon asked the Witness, if he knew whose Son Mr. *Annesley* was, and whether he was not like the Lady *Altham*? The Witness answered, he was not, but that he was *Joan Landy*'s Son. Upon which *Mac Kircher* tore the Paper, and threw it into the Fire.

Said

Said, he was asked by one *O Neil*, a Servant, who was present, whether he would go and live in another Place; that the Witness answered, he would not; said, that Mr. *Mac Kircher*, Captain *Levinston*, and the Plaintiff, went into the little Room, but whether the Gentlemen heard or took Notice of what *O Neil* said to him, he did not know; said when he was in Lord *Altham*'s Service he shaved his Lordship and cut *Jemmy*'s Hair; said he had some Discourse with his Lordship when he was going to sell the Reversion of his Estate, that he copied the State of the Case in the Presence of *Oferifferon Gamble*, and the Witness asked his Lordship to whom that Estate would go after his Lordship's Death, his Lordship made Answer, it would go to Mr. *Charles Annesley*, but that his Lordship would get an *English* Act of Parliament to settle the same on his Lordship's Brother, Captain *Annesley*; said, that his Lordship asked the Witness at *Carrickduff* if the Witness's Mother was a Protestant, the Witness answered, she was, and thereupon his Lordship said, he would rather than Five hundred Pounds that that Child's Mother was so too; said, that he had Discourse with the Plaintiff Mr. *Annesley*, and on such Discourse the Witness told him, that he often brought Messages backwards and forwards to his Mother *Joan Landy*, and from her to him, and particularly brought him a Pair of Stockings; on which the Plaintiff Mr. *Annesley* said, it was usual in the Country for Children to call their Nurses Mother. On which the Witness said to Mr. *Annesley*, it was unhappy for him that the Witness knew his Mother so well, and thereupon Mr. *Kircher* desired the Witness to consider, if it was not customary in *Ireland* for Children to call their Nurses Mother, and for the Nurses to call them Children; and further, Mr. *Kircher* added, it was strange that the Witness would not say, what all the other Servants said at Lord *Altham*'s about Mr. *Annesley* being his Son. At which the Witness said, the Plaintiff Mr. *Annesley* was not his Son, and that the Witness was better acquainted with, and knew more of his Lordship's Affairs than any other of his Servants, and that *Joan Landy* gave him a Pair of Stockings, and desired him to carry them to her Son

Son *Jemmy*. The Witness being desired to look about the Court, and to point at the Gentlemen that were in the Room at the Time of the Discourse, the Witness looked about and said he saw none of them.

And the Witness being examined by the Plaintiff's Council, said, that Captain *Lewinston* was by at all the Conversation, but knew not whether *O Neil* was by; said, his Lordship very often corrected the Plaintiff Mr. *Annesley* very severely at *Proper-Lane*, but did not correct him at *Carrickduff*, but said, he could not say the Plaintiff Mr. *Annesley* was guilty of the Things laid to his Charge, but that Mr. *Annesley* would own them: said, the Correction which Mr. *Annesley* received in *Proper-Lane* was, for taking a Jockey's Belt, a Pair of Pidgeons, and some other trifling Things, and for not minding his Book; that his Lordship used to examine the Boy in his Book, but never heard his School-master Mr. *Carty* complain of the Boy, tho' his Lordship told the Witness that he did.

Said, that Miss *Gregory* never complained of the Boy to Lord *Altham*; said, Lord *Altham* did not tell the Witness that *Carty* the School-master has corrected the Boy, and the Witness being asked how old he was, the Witness answered, that by a Book of his Father's the Witness was born in 1703, and that he was fifteen Years old when he went to live with his Lordship.

Said, that Lord *Altham* used to say, that he kept his Son in a Red-Coat, because his Mother wore a red Petticoat.

Said, that he often saw Lady *Altham* going to Church at *Ross* whilst he the Witness was an Apprentice at *Ross*, and saw her Ladyship after in *Stable-Lane*; said, he knew none of the Gentlemen that used to visit Lord *Altham*, nor did he ever hear but once that his Lordship was at a Hurling, but that many Gentlemen might be at his Lordship's House without the Witness's Knowledge; said, some of the Family of the *Owens* were at *Carrickduff*, and that he saw them there, as also one Mr. *Stone*, who lived in the Yard at *Carrickduff*.

Said

Said, he knew that Mr. *Anneſley* wore a laced Hat, but never wore a Feather, nor had he a Silk Coat that he knew of; ſaid, that he confeſſed to Captain *Levinſton* that Mr. *Anneſley* had a Horſe and a Pair of Boots, and uſed to hunt with Lord *Altham*, but never ſaid he went a Viſiting with his Lordſhip; ſaid that when any Gentleman of Rank or Appearance came to dine with Lord *Altham*, that the Boy did not dine with them, but when Farmers dined with his Lordſhip the Boy uſed to dine with them; —— deny'd that he ſaid to Captain *Levinſton* that the Boy was given into the Witneſs's Care, or that he took Care of him, otherwiſe than by cutting off the Boy's Hair, and denied that the Boy was given into the Care of Mrs. *O'Neil*, but acknowledged he told Captain *Levinſton* that the Boy went to School to one *Straughan*, and to one *Paddy*, his Couſin of his Mother's Side by *Joan Landy*, and that when *Paddy* came to *Carrickduff* he uſed to call for the Boy, and the Boy called him Couſin *Paddy*, and *Paddy* on Examining him in his Book would ſay to the Boy, that he was Volume the Third, ſaid that Miſs *Gregory* and two others were with Lord *Altham* at *Carrickduff*.

And the Witneſs being aſked by the Plaintiff's Council, whether he did not tell Captain *Levinſton*, that Lord *Altham* had debauched Miſs *Gregory*; the Council for the Defendant objected to that Queſtion, for they ſaid they intended to produce and examine Miſs *Gregory* as a Witneſs for the Defendant on this Trial, and if that Witneſs was now on the Table and to be aſked that Queſtion, ſhe could demurr to it.

Council for the Plaintiff. My Lords, this is Part of our Caſe for the Plaintiff Mr. *Anneſley*, on opening the ſame to your Lordſhips and the Jury, that it was by the Means of this Miſs *Gregory* that the Plaintiff Mr. *Anneſley* was abandon'd by his Father the Lord *Altham*, and all the Converſation as has been hitherto related by the Witneſs is only in part, if the Remainder be not confeſſed by the Witneſs, the Plaintiff has no Benefit of the

Examina-

Examination, and the rather, my Lords, by the Witneſs's own Confeſſion; the Converſation was introduced by himſelf, and therefore we have a Right to examine him as to what he ſaid, to the Queſtion aſked.

Court. Council for the Plaintiff, can't you aſk the Queſtion in the Words propoſed?

Council for the Plaintiff. My Lords, then we will aſk the Witneſs this Queſtion, whether he did not tell the Company that Miſs *Gregory* had uſed the Plaintiff, *Mr. Anneſley*, very ill?

Court. That Queſtion is propoſed, the Witneſs ſaid that he believed he told the Company that Miſs *Gregory* had uſed the Plaintiff Mr. *Anneſley* very ill, as he heard and was told by the Maids, but on his Oath believed that Miſs *Gregory* did not uſe the Plaintiff ill; and the Witneſs being aſked whether he did not tell the Company that Miſs *Gregory* had miſcarried by Means of a Frog that was brought in by the Plaintiff?

Council for the Defendant. My Lords, we object to that Queſtion as the ſame tends to impeach the Credit and Virtue of Miſs *Gregory*.

Council for the Plaintiff. My Lords, we will aſk the Witneſs this Queſtion, whether he did not tell the Company that Lord *Altham* and Miſs *Gregory*'s Mother had a Falling-out.

The Witneſs being aſked the Queſtion — ſaid he did tell the Company that Lord *Altham* and Miſs *Gregory*'s Mother had a Falling-out.

Council for the Plaintiff. Witneſs, did not you tell the Company that to reconcile the Matter that Lord *Altham* did marry Miſs *Gregory*.

Council

Councillor for the Defendant. My Lords, we object to that Question as being foreign to the Matter now before the Court.

Court. The Question ought to be asked.

The Witness being asked the Question, said, he told the Company, that he heard that Lord *Altham* and Miss *Gregory* were married, but did not remember or believe that he told the Company that Miss *Gregory* was always called Lady *Altham*, but that he told them that Miss *Gregory* was called Lady *Altham* at *Ross*, and that it was at *Ross* that he heard she was called so; and said, he never called her Lady *Altham*.

Said, that Lord *Altham* had so great a Regard for him, above any other of the Servants, that when the Witness was ill at *Carrickduff*, his Lordship brought him up some Mulled Wine, and that then his Lordship said to the Witness, *I would give a Hundred Guineas, that* Joan Landy, *the Child's Mother, was a Protestant*; said, that he never talk'd to any of the Gentlemen in the Country, nor did he know what the Opinion of the School-boys was, or of the House-keeper in *Proper-lane*, relative to the Plaintiff Mr. *Annesley*'s being the Natural Son of Lord *Altham*, but he believed they were all of the same Opinion with his Lordship's Family, and that a Bricklayer, a Woman, and a Person that kept an Inn, in *Proper-lane* knew it, and that he was called *Jemmy Landy*, but that he never spoke to them, or any one of them about it, and that his Lordship was more familiar with the Witness than any other of his Servants, he, the Witness, being his Countryman's Grandson, —— and that his Lordship, with his own Hands, cut off the Witness's Hair.

Said, that at the Time his Lordship brought him up the Mulled Wine, and the Witness not drinking it, he sent Master *Annesley* for a Horse whip, and whipp'd the Witness till he drank the Wine, and that the Witness slept so well all that Night that he did not wake, —— and allow'd that he heard that Miss *Gregory* was an Enemy to the Plaintiff, Mr. *Annesley*.

Council for the Plaintiff. My Lords, we have no farther Questions to ask this Witness.

Council for the Defendant. My Lords, it is too late further to proceed in this Trial, therefore we are willing to consent to an Adjournment 'till *Monday* Morning next.

It being now 8 o'Clock, the Court agreed not to proceed to the calling any more Witnesses this Night, and so Adjourn'd 'till *Monday* Morning, the 21st of *November* at Ten of the Clock, by the Consent of both Parties as usual, which was read in open Court.

The Ninth Day of the TRIAL.

Monday, November 21, 1743.

THE Court being met on *Monday* Morning according to Adjournment, and the Jury being called over, they answered to their Names respectively; and being all got into the Jury-Box, the Court proceeded on the Trial.

Court. Council for the Defendant, you may proceed to the examining of your Witnesses.

Council for the Defendant. My Lords, we will now produce Mr. *Henry Brown*, who will prove his going to School with the Plaintiff, where he was reputed to be the Bastard Son of Lord *Altham*.

Twenty-second Witness, *Henry Brown*, *Being first sworn to the* Voire Dire, *and then in* Chief. Says, he went to School to one *Carty*'s in *Proper-Lane*; that he remembers one *Strong* went to School with him, and a Boy went

went to School there under the Name of Lord *Altham*'s Son; that, to the beſt of Deponent's Remembrance, he was reputed to be my Lord's Baſtard Son, but cannot remember what was his particular Name, or how long it is ago, but, to the beſt of his Knowledge, he ſaw the ſame Boy laſt Summer in *Ann-ſtreet*. Being aſked how old he is; ſays, about thirty-three Years old, and was about thirteen or fourteen Years old when he went to Mr. *Carty*'s School. And being aſk'd what Sort of Boys uſed to go to *Carty*'s School, ſaid, that moſt of the Boys who went to that School were the Sons of People in low Circumſtances.

Council for the Plaintiff. My Lords, we have nothing to croſs-examine this Witneſs to; for what he has ſworn does not at all prove the Leſſor of the Plaintiff a Baſtard, but that he was told ſo, which is only Hearſay.

Court. Council for the Defendant, go on and call your next Witneſs.

Twenty-third Witneſs. *Thomas Strong*, ſays, he remembers *Daniel Carty* to keep School in *Plunket*'s-*Yard* in *Proper-Lane*, and that the Deponent went to his School there; that he remembers one *Annesley*, a Boy, to go to School there, who was reputed Lord *Altham*'s Baſtard Son; that *Anneſley* was a Month at School there, to the beſt of the Deponent's Remembrance; and that he ſaw the ſame Boy afterwards in *Ormond Market*, but never called him Lord. Says, that the Boys who went to that School were moſtly Tradeſmens Children; and that he remembers one *Harry Brown* was there at the ſame Time, and that the Price of the School was a Crown the Quarter.

Croſs Examined.

Says, it was the common Report of the School, that the Boy was not my Lord *Altham*'s lawful Son. Being aſk'd if he knew *Patrick Plunket*, and what Character the ſaid *Patrick Plunket* bore; to which he reply'd, That he knew *Patrick Plunket*, and is ſure he is acquaint-

ed with him; and believes he is a very honest Man, and that he would not say a false Thing upon his Oath.

Twenty-fourth Witness, *Thomas Barret*, *sworn to the* Voire Dire. Says, he knew a Boy at *Ross* in the Year 1724, who went under the Name of *James Landy*: Says, the Boy lived in his House eight Weeks, and in the Deponent's Brother's House four Months that Year, and that the Deponent had no Consideration for maintaining him; Says, he was reputed to be Lord *Altham*'s Son by *Joan Landy*; and that he came to *Ross*, as having no Body to take care of him, and that the Town of *Ross* belonged to his supposed Father; he then said that *James Landy* came to *Ross* after Lord *Altham* left *Carrickduff*; and that one Mr. *Weldman*, my Lord's Receiver, desired the Deponent's Brother to take care of him. Says, he saw him in *Ross* with his Mother, *Joan Landy*, before he lived in the Deponent's House, when he was about five Years old, or thereabouts. Says, that he was about eleven Years old when he came to *Ross* the second Time; and the Reason the Boy came to the Deponent was, because one *Cormuck*, his Mother's Husband, would not encourage him. Says, *Joan Landy* married *Cormuck* at *Ross*; says, he heard the Boy went to *Dublin* after leaving his Mother; says, *Joan Landy* never came to see him, while he was with the Deponent; says, he was sometimes called *Jemmy Annesley*, and sometimes *Jemmy Landy*; says, he never saw him before his Mother brought him to *Ross*, and the first Time he was at *Ross* he was about five Years old, and the second Time he came there he was about 11 Years old; says, he cannot tell where the Boy spent his Time between the Age of five and eleven Years; says, he saw him about a Month ago in *Ross*, and also about twelve Months ago, and that he was then called *James Annesley*; says, he is sure he is the same Person that had formerly lived with him, and that the Deponent knew his Face; says, that the Plaintiff rode with about twelve Men into *Ross*, and that the Deponent knew him among them, and that that was the first Time the Deponent saw him since he lived with the Deponent at *Ross*.

Cross

Cross Examined.

Says, he lived in *Ross* before *Joan Landy* was married, but can't tell how long; says, the Boy was about five Years old the first Time the Deponent saw him, as near as he could judge; says, he did not ask whose Son he was, because it was in every Body's Mouth, that *he was Joan Landy*'s Son; says, that *Joan Landy* lived in *Ross* till within these three Years. Says, he cannot exactly say what Cloaths the Boy had on the first Time he saw him; that his Cloaths were of so little Value, that they were not worth observing——It was some Sort of a Gown, but the Deponent never took Notice of it. Says, he never took Notice of his having the Small-pox the first Time, nor did he observe any Impressions of the Small-pox the second Time; says, he saw him at *Carrickduff* some Time before he came to live with the Deponent, and then he was between nine and ten Years old; Being ask'd if he had ever any Discourse with *Joan Landy* about the Plaintiff, said he never had.

Twenty-fifth Witness. *William Knapper* being sworn to the *Voire Dire*, and then in Chief; says, he came for the sake of Truth and Justice. Being asked how long he had lived in *Ross*; says, he has lived in *Ross* about fifty Years, (except about a Year and a half.) Says, he has seen a Boy at *Ross*, shewn by *Thomas Barret* to him, and never saw him after, to the best of his Knowledge, except with a Gentleman who is called Mr. *M'Kercher*, as Deponent is informed. Being asked if he ever heard that Lady *Altham* had a Child; says, he never did, and believes it is impossible she should have a Child without his knowing it; and that he has heard a hundred times, that she never had a Child; that he was well acquainted with her Ladyship when she lived at *Dunmain*, and it was the Reputation of the Country, that she never had a Child in *Dunmain*, or in *Ireland*. Says, he was very well acquainted with the late Lord *Altham*; that he was often to visit my Lord *Altham* with many Gentlemen, and never heard any Child made Mention of, and believes if there was any such, it would have been talked of; says, my Lord

Anglesey

Anglesey had some Suspicion of some *English* Affair, but he believed not of this Sort. Says, he is married to a Niece of Counsellor *Annesley*'s in *England*, and that when he visited Lord *Anglesey*, Lord *Altham* would never be pleas'd at it. Being asked if he saw Lord *Anglesey* soon after the Death of Lord *Altham*; says, he paid his Compliment to my Lord *Anglesey* after my Lord *Altham*'s Death, and he never heard of any Son of my Lord *Altham*'s. Says, that Lord *Anglesey* came in Possession of the Lord *Altham*'s Estate, and enjoy'd it ten Years; and the Deponent had a Letter of Attorney from the late Lord *Anglesey*, and gave Minutes of it to the Tenants, and no Person fram'd a Notion of a Son of Lord *Altham*'s, nor ever made any Objection on account of it. Says, the Town of *Ross* is almost intirely the *Altham* Estate, and if Lord *Altham* had a Son, he believes there must have been some Whispers, and it would have run from one to another, and would have been no Secret. — There would have been Rejoicings in *Ross*, and it would have been talk'd of by the whole Country, and would have been known in every County; nay, he believes the whole Kingdom, and all *England* would have heard it: But says, the Reputation of the Country was, that Lord *Altham* had a Son by *Joan Lanby*.

Cross Examined.

Being asked if he was well acquainted with *James* late Earl of *Anglesey*; said, he had seen Earl *James*. Being asked if he knew *Joan Landy*'s Child; says, he did not know the Person, but he was shewn to him by one *Barret*. Remembers Earl *Arthur* at *Dromolan*. Believes one *Higgison* was concerned as Agent for Lord *Anglesey*. Being asked if he could remember when he was first acquainted with Earl *Arthur*; says, he cannot recollect when he was first acquainted with Earl *Arthur*; and says, that after the time that Lord *Altham* took to his Lady again, Earl *Arthur* never cared for Lord *Altham*.

Twenty-

Twenty-ſixth Witneſs. *George Brehan*, one of the Attorneys of his Majeſty's Court of *Exchequer*, ſworn to the *Voire Dire*, and then ſworn in Chief; ſays, he was Twenty-eight Years old laſt *April*; believes he knows the Leſſor of the Plaintiff, Mr. *Anneſley*; ſays, the firſt Place he ſaw him at was in *Roſs*—He was then call'd *Jemmy Altham*; and the Deponent did not know him then by any other Name, but does not remember the Year. Says, he remembers the Death of King *George* the Firſt, and that the Guide to his Memory was the Election for *Roſs*; ſays, he remembers that his Father was ſerved with an Ejectment, for giving his Vote to Mr. *Lee* and Mr. *Totnam*. Says, he ſaw the Leſſor of the Plaintiff at the Deponent's Father's Houſe, and he was in a miſerable Condition; and as he was reputed Lord *Altham*'s natural Son, the Deponent gave him Bread, and ſupported him, and took him to his Father's Stable, leſt he ſhould lie in the Street; ſays, he alſo ſaw him at the Houſe of *Francis Barret*, who who was an Ale-ſeller, next Door to the Deponent's Father's Houſe; ſays, the Boy uſed to run of Errands, and the Deponent remembers to have heard he miſbehaved.

[*Deponent was going to give an Account of a Converſation he had at the* Walſh's Head Tavern, *but was prevented by the Court, the ſaid Converſation being only Matter of Hear-ſay.*]

Being then aſked if he ſaw the ſame Perſon afterwards; ſays, he believes he ſaw the ſame Perſon afterwards; ——— His Reaſon for it is: About the time of the Report of taking *Carthagena*, there was a Rumour, that there was a Perſon in the *Weſt Indies* who claim'd the Eſtate of the Earl of *Angleſey*, and in *November* laſt, as the Deponent intended to come to *Dublin*, he heard that Mr. *Anneſley* was coming to *Roſs*, and waited to ſee him; and when he was riding into *Roſs* the Deponent ſaw him with many others, and obſerved his Face, and ſays he pointed to him, for he remember'd he had a high Noſe;

and

and the Deponent believed it was the same Face he formerly knew, and which he describ'd to one Mr. *Milbank* before he saw him. Says, he believes he is the same Person he formerly knew, and that his Face is every Day more and more familiar to him since he saw him. Says, he was reputed to be the Son of Lord *Altham* by *Joan Landy* (a Woman who sold Beer) in *Ross*.)

Cross Examined.

Says, he can't tell how long it was before the Election of *Ross* that he saw the Boy, or whether it was two Years or three Years. Says, he believes the Boy was the older of the two, because he was then bigger than the Deponent; says, he believes the Boy was then ten or eleven Years old; says, he does not know how long the Boy continued at *Ross*, and that he took no Notice of the Time; knows his Father had a Lease dated in 1721, and that in 1727 he quitted the House about *Christmas*. Says, he believes it was near the time of the Election of Parliament that he saw the Boy; says, he remembers more particularly his Father's removing, because it was more remarkable to him; says, he believes *Joan Landy* lived in *Ross* when the Boy was there, for the Boys used to say, there is *Jemmy Altham*'s Mother. Says, he can't tell how long the Lessor of the Plaintiff was in *Ross*, but knows he lodged him in his Father's Hayloft; and when the Lessor of the Plaintiff came into *Barret*'s House he was little provided for. Being asked what School he went to; says, he went first to one *Cullen* to learn to read and write, and after to one *Piggot*, who taught *Latin*; that he left that School, and returned to it again; that he was at *Piggot*'s School when he knew the Boy. Says, he was about eight or nine Years old when he went to *Piggot*; that he was at *Piggot*'s School for about four or five Years; that he went to one *Buckley*'s School to learn to write, but cannot remember how long he was there. Says, that *Francis Barret* lived next Door to the Deponent's Mother, and above him one *Thomas Barret*; says, that the Boy was just come to *Ross* when

he

he saw him, and that his Mother was not able to maintain him; says, he never knew one *Edward Lutwich* nor any of that Name.

Twenty-seventh Witness. *Elizabeth M'Mullen* sworn. Says, she knew Lady *Altham* when she lived in *Dunmain*, and that the Deponent then lived in *Ross*, and visited her Ladyship once at *Dunmain*; she believes it was about three Quarters of a Year after her coming thither, but cannot be exact as to the Time. Says, she was well acquainted with my Lady after she left *Dunmain*. Says, she saw her at Captain *Butler*'s at *Ross*, and remained in *Ross* for three or four Years, and very often visited my Lady at *Ross*; she believes twice a Week for two Years. Says, my Lady went from *Ross* to live in *Dublin*: That the first Place she lodged at (when she came to *Dublin*) was at one *Cavenagh*'s in *Stable-Lane*, near *Mary*'s *Lane*; and that the Deponent seldom missed a Week without seeing my Lady, while she lived in *Stable-Lane*. Says, she left *Ross* in 1719, and came to *Dublin*, and lived in *Bride-street* for a while, but cannot exactly tell when my Lady came to *Dublin*; but Deponent knows she went in a Coach with Mr. *Cavenagh*, to the *Stage Coach Inn* in *George*'s *Lane*, to bring my Lady to *Cavenagh*'s Lodgings. Says she visited my Lady, when she removed her Lodgings to Alderman *King*'s, where she was put into Stupes; and one Doctor *Irwin* was her Physician; and that the Deponent used to see her very frequently. Says, her Ladyship lodged at Mr. *King*'s for about a Year, and after that came to lodge with Deponent at her House in *Tashe*'s *Square* in *Montrath Street*, where she continued for about eight or nine Weeks, and from thence she went to *England*. Being asked if ever she discoursed very familiarly with my Lady; says, she did; and had heard her very often wish she had had a Child. Being asked what she understood by that; says, she understood my Lady meant an Heir to my Lord's Estate. Being asked if she ever heard my Lady had a Child by my Lord *Altham*; says, she never heard my Lady had a Child,

and it was the general Reputation she never had a Child. Says, she never saw a Child with my Lord at *Dunmain* or *Ross*: That Mrs. *Heath*, her Woman, and the Deponent put her on Shipboard.

Says, she remembers she was with my Lady one Night, after Supper, as she was preparing to sail, and her Ladyship requested the Deponent to send her the first Account of my Lord's Death; and she took the Deponent by the Hand to make her a Promise of it; and said, that the Deponent was a faithful *Irishwoman*; and the Deponent promised she would write to Mrs. *Heath*. Says, that in some time after, when she heard of my Lord's Death, she waited for his Funeral, and observed who were the Bearers, and what Coaches there were, and sent over an Account of it.

She then said, she saw a Boy at the Funeral, crying, *My Father! My Father!* that she turned him about, to see who he was; and asked him, *Who are you*, and *who is your Mother?* that he answered, and said, *Joan Landy is my Mother, and Lord* Altham *is my Father*. Says, she wrote an Account to Mrs. *Heath*, directed to her Brother's in *London*, that *John Weedon* the Coachman, and his Wife, and *Joan Landy*'s *Son*, were the only Weepers at the Funeral. Says, she heard at *Ross*, and it was the general Reputation, that *Joan Landy* had a Son by Lord *Altham*. Being asked in what Condition was the Boy at the Funeral; says, he looked like a Black-guard Boy; and that she was surprised to hear the Boy call Father, because she never heard that my Lord had a Child, except by *Joan Landy*; says, she never saw him since.

Cross Examined.

Says, she lived in *Ross* with her Father, who kept a great Inn there, and my Lord and Lady used to visit and dine there, before the Separation. Says, she never heard that my Lord brought any young Gentleman thither; says, she never visited my Lady at *Dunmain* but once; says, she cannot tell how long my Lord and Lady lived at *Dunmain*, but believes above two Years; says, she remembers my Lady came to *Ross* late at Night, Candles were just begun to be light, but does not remember

†

member the Day; says, that shortly after she was acquainted with my Lady; says, she lived near the Cross, and her Father's Name was *Israel Boucher*. Being asked if my Lady was a proud Woman; says, she was; but that she dined very often at the Deponent's Father's, up towards the Hill, when he kept a House of Entertainment. Says, the Deponent did not attend the Tap at her Father's House; says, she left *Ross* in the Year 1719; that she was married in *January*, and went to settle in *Bride-street*, and after in *Tasbe*'s *Square*. Says, she cannot recollect the Time my Lady came to *Cavenagh*'s in *Dublin*; says, my Lady had Lodgings at one *Smith*'s in *Dublin*; says, she does not know Mrs. *Hogers*; says, she heard that her own Husband took Lodgings for my Lady, but don't know the Name of the Person at whose House the Lodgings were taken. Being asked if my Lady could walk when she lodged at the Deponent's House; says, that she was not able to walk, but as a Woman had her in her Arms. Being asked if she heard of any Person's losing their Limbs by Child-bearing; says, she never did. Being asked if she ever heard the Cause of my Lady's losing her Limbs, or did my Lady ever tell her she lost them by a Cold she got in her Lying-in; says, she never heard the Cause of her losing her Limbs, and my Lady never told her the Cause of it; and that she never asked her the Cause of her Disorder. Says, my Lady was sick at *Ross*; that when she was in *Ross*, she came to Church in a Chair, and walked from the Chair to the Pew; that she was in a great deal of Grief, and walked but indifferently; says, she apprehended a Disorder in her Ladyship's Limbs at Mr. *Butler*'s in *Ross*, but she never discourfed with her about it; says, she believes it proceeded from her Grief; that the Deponent saw her several Days crying for Grief. Says, she never knew any such Person, as *Edward Lutwitch* a Shoe-maker in *Ross*; says, that one *Allen* was the best Shoe-maker in *Ross*. Being asked if my Lady lodged at any other Place in *Ross*, but at Mr. *Butler*'s; says, she lodged at one *Wright*'s in *Ross*; and that the Deponent visited her there, and was then unmarried. Being asked to whom did she promise to write, concerning Lord *Al-*

tham's Death; says, she said she would write to my Lady's Woman, Mrs. *Heath*, because my Lady was sickly; and because in all Probability Mrs. *Heath* was likely to live longer. Says, she heard of my Lord's Death in the News, and in the Elegy that was cry'd about. Says, she believes it was Curiosity led my Lady, when she desired the Letter to be written. Says, she watch'd the Funeral at the Corner of *Christ-Church-yard*, and follow'd it; that it was about Ten at Night; that she did not see the Choir attend the Burial, nor Mr. *Hawkins*, King at Arms; that she does not know who were the Bearers or Mourners, nor whether she gave any Account of them in her Letter, nor whether the Scarfs were black or white; but knows that whatever she writ in her Letter was true, but has not read the Letter since. Says, she saw but one Clergyman, and the Virger of *Christ* Church attend the Funeral, and that she remembers the Boy stood at the Opening of the Vault. Being asked if she told any Person, within these two Years, that she saw the Boy at the Funeral; says, she can't recollect that she did. Being asked if she got Directions where to write to *England*; says, Mrs. *Heath* desired the Letter to be directed to her Brother; and that the Deponent gave Directions where to write to herself. Says, the Boy did wear his own Hair: That two of the Flambeaus remained with him, and some others went away. Says, she never heard that my Lady miscarried, or that she was with Child; says, that she knows Mrs. *Lenox*, but never told her that my Lady miscarried. Being asked if she told one *Reily*, a Servant to my Lord *Montjoy*, or his Wife, that the Plaintiff had a Right to the Estate; says, she lived with my Lord *Montjoy* as a Servant, and with Squire *Hamilton*, and that she now lives with Mr. *Lee*, and that she never said to my Lord *Montjoy*, that the Plaintiff was the right Heir; nor does she recollect that she told *Reily* or his Wife, that the Plaintiff had, or had not a Right to the Estate. Says, she heard a Rumour that my Lady had a Child in *England*. Being asked what was her Reason for turning the Boy about at the Funeral; says, because he said he was *Joan Landy*'s Child.

Twenty-

Twenty-eighth Witneſs. *Matthew Darcy*, ſworn to the *Voire Dire*.

The Witneſs was asked by the Council, whether he was not bound in ſeveral Sums for the Defendant, or whether the Defendant owes him any Money, which Defendant will be diſabled from paying, if he loſes his Eſtate in Queſtion.

Court. Theſe Queſtions may be asked on Croſs-Examining, but not on *Voire Dire*.

The Witneſs was asked whether he is not Receiver for Lord *Angleſey*, which he will loſe if the Plaintiff prevails.

Counſel for the Defendant. A Man may examine his Receiver, becauſe he has no certain Intereſt, and eſpecially if not Receiver of the Lands in Queſtion, becauſe then he is not immediately, but conſequentially intereſted. For the ſame Reaſon a Tenant at Will of Lands, not immediately in Queſtion, may be examined.——A Man may examine his Son and Heir.——The Heir at Law was produced at *Waterford* before my Lord Chief Juſtice *Whitſhed*, and it was determined that he might be examined, becauſe he had only a Poſſibility, and no Eſtate veſted in him.—And an Heir has a more certain Tenure than a Servant.

Court. The Queſtion is proper on Croſs-Examination, but not on *Voire Dire*.

The Witneſs was asked again whether he will ſuffer if the Defendant loſes.

The Witneſs ſaid, he accepted ſome of the Defendant's Bills drawn upon him (ſomething leſs than a thouſand Pounds) and that he has not ſettled Accounts, but is ſure he has the greateſt Part of the Money in his Hands, and does not apprehend that three hundred Pounds are due to him; and ſays, that the Earl of *Angleſey* dealt with him as honourably as any Man could do with another.

Court.

Court. When the particular Questions are asked regularly, the general Question cannot be asked; but nevertheless it may be asked on *Voire Dire*. A Person's being a Servant, is an Objection to his being a Juror, but it cannot be an Objection to his being a Witness.

Mr. *Darcey*, sworn in chief. Says, he knew the late Lord *Altham* at *Carrickduff*, and continued his Acquaintance with him 'till my Lord's Death. Says, he never heard my Lord *Altham* say any Thing of a Child of his; says, he saw a Boy at *Carrickduff* at a Hurling, and that he was clad in red; but that he had no Discourse with my Lord about the Boy; says, that he heard that the Boy which he saw at *Carrickduff* was a Bastard; and that he never heard my Lady *Altham* had a Child. Says, the first of his Acquaintance with my Lord was, when my Lord lived at *Carrickduff*; that he dined with my Lord at *Carrickduff*, and that he did not see any Boy dine with him. Says, he lived at his Mother's House within three Miles of *Carrickduff*, and never heard a Word of my Lord's having a Child.

Council for the Defendant. My Lords, we will now call our other Witnesses to shew Lord *Altham*'s Thoughts of this Boy, and of his Lordship's Declarations of his never having any Child, and that he did not care what became of the *Anglesey* Estate after his Death, he having not any Child to succeed him therein.

Twenty-ninth Witness. *James Medlicot*, Esq; says, he knew the late Lord *Altham* in *Kinna*, in the County of *Kildare*; that he kept a Pack of Hounds, and that sometimes the Deponent used to go a Hunting with him; that he dined sometimes with my Lord at *Kinna*, and sometimes at Mr. *Annesley*'s at *Ballysax*. Being asked if he at any Time had any Conversation with Lord *Altham* about the *Anglesey* Estate; says, he remembers at one of these Places the Conversation turned on the *Anglesey* Title and Estate; and that my Lord said, he had Reason to expect he should be Lord *Anglesey*, and then added, *When I shall die, as I have no Son of my own, I don't care*

care what will become of the Estate, & if the D——l should have it. Deponent says, my Lord made use of these Words, or to that Effect or Purpose. Says, he never saw any Boy at *Kinna*, nor heard of any Boy being there.

Cross Examined.

Being asked if he can remember where that Discourse happened; says, he cannot recollect where the Discourse happened, nor who was in Company then. Says, he had no Acquaintance with my Lord till he came to live at *Kinna*. Being asked if ever he told any one of this Conversation within these two Years past, says, he never remembred it till this Dispute. Says, he fell into some Discourse at the last *Curragh* Races, which brought the Conversation of my Lord *Altham* to his Memory; that he remembers my Lord made use of these Words, *As I have no Son of my own:* At least as near as the Deponent can recollect, that was the Meaning and Sense of the Words. Says, he had no Conversation with him about his Lady; and that Mr. *John Annesley* was my Lord's Relation.

Thirtieth Witness. Colonel *William Becket*. Says, he knew the late Lord *Altham* about twenty Years ago; that he first knew him when my Lord lodged in *Essex-Street*, and that he knew him in *Inchicore*; that he conversed with him several times, and remembred there were some Animosities between my Lord and his Brother, and that my Lord said, he wished his natural Son had been a legitimate Son, to cut the Scoundrel his Brother out of the *Anglesey* Estate; that he never heard till of late, that my Lord had a legitimate Son, but it was always reputed in the Country, he had a natural Son, and no other.

Cross Examined.

Being asked where he was first acquainted with my Lord; says, he was first acquainted with my Lord in *Essex-street*, and that their Acquaintance never broke off; that he saw him at his Lodgings, and

and dined with him there; and that he saw him at *Inchiquore*; that he was sure he was not a whole Year without seeing my Lord *Altham*, and that he dined with my Lord in the Summer House at *Vice*'s, where he lodged in *Essex-street*; that he had not seen my Lord from the time he saw him at *Vice*'s, until he saw him at *Inchicore*. Being asked how long it was from the Time my Lord lodged at *Vice*'s, to the Time that he lodged at *Inchicore*; says, he believes it might not be a Year. Says, that at the Time my Lord *Altham* mentioned his wishing to have a Son to cut the Brother out, his Son and one *Cavanagh* were present; that it was at Night before Supper, and in the Parlour; that there was a Bottle of Wine and a Bowl of Punch on the Table, and that the Deponent stay'd till three o'Clock next Morning. Being asked, whether Miss *Gregory* was there; says, he was told that Miss *Gregory*, a Relation of my Lord, was in the House, but she was not present.

Thirty-first Witness. *Wentworth Harman*, Esq; Says, he was very well acquainted with the late Lord *Altham*, from the Year 1714 or 1715, and knew him when he lived at *Kinna*; that he very often heard my Lord at his own House lament he never had a Child by his Wife; that he heard him very often speak of a Bastard Child, which my Lord said, he could not tell whether it was his own Child, or his Brother's, or his Footman's, and when my Lord would dwell much on the Subject, that the Deponent sometimes said, *Why do you pester me, in speaking about your Bastard Son? Why don't you go to your Wife, and get a Child by her?* that my Lord answered, Plague on the B--ch, she can't bear one, and that the Deponent heard my Lord frequently speak to that Purpose.

Cross Examined.

Says, he does not know when my Lady came to the Kingdom; that he became acquainted with my Lord *Altham* immediately after he came to this King-

dom;

dain; that he cannot recollect he ever had any Discourse with Mr. *Madden*, about this Affair; that he never saw my Lord *Altham* with his Lady, nor does he know where my Lord *Altham* lived at the Queen's Death: that at the Queen's Death the Deponent lived in *Dawson's Street*, and that he had the first Conversation with my Lord when my Lord lived at *Kinnel*, near the *Curragh*. Says, he never saw the Boy, and believes it was after the Queen's Death, that Lord *Altham* had the Conversation about him. Says, he heard that my Lord had a Bastard, and never heard till lately about *Palliser*.

Thirty-second Witness. *Christopher Stone*, sworn to the *Voire Dire*, and afterwards sworn in Chief. Being asked if he knew *John Purcell* the Butcher; says, he knows *John Purcell* the Butcher, and his Son, and that *John Purcell* is the Deponent's Tenant. Says, that *Purcell*, the Father, mentioned to him that he was summoned to give Evidence, and asked, what cou'd this be; and that the Father related the Transaction about a Boy, and said, he happened to be in *Smithfield*, and saw a Boy there with a Thumb Rope about his Middle, who said he was a Son of Lord *Altham*'s; and that *Purcell* then mentioned, he would speak to Lord *Altham* to take care of him; and that he would have taken him as an Apprentice, but said, he hop'd the Boy was born to better Fortune. Says, that he said to *Purcell*, *One Thing you told me, which your Son did not tell me, about seeing a Ship from* Essex-Bridge. Says, he could not charge his Memory, that the Father said any Thing about the Variations of his Evidence.

Cross Examined.

Being asked if he believes *Purcell* to be an honest Man; says, he believes he is, and that he would not forswear himself on any Account.

Council for the Defendant. My Lords, and you Gentlemen of the Jury, we have but one other Witness to examine on Behalf of the Defendant, who is one Mrs.

Shaw, to shew unto your Lordships and the Jury the Conversation that happened between this Witness and *Catharine Mac Cormick*, who was examined, and swore roundly for the Plaintiff in this Trial, and which the said *Mac Cormick* on her Examination confessed she had some Discourse with this Mrs. *Shaw*, and then shall rest the Evidence for the Defendant, and leave the Gentlemen of Council for the Plaintiff to call what other Witnesses they have on their Reply.

Thirty-third Witness. *Hannah Shaw*, Being asked if she knew one *Catharine Mac Cormick*; says, she knew one *Catharine Mac Cormick* that papers Rooms; that she came to the Deponent about a Year before to paper a Room; that she then said, she had a comical Discourse with a young Man, who used to go about to get Evidences for Mr. *Annesley*; and that she told him, Lady *Altham* never was with Child, nor had a Child, but that Women used to quack with her with Herbs. Says, that *Mac Cormick* farther mentioned, that she desired him not to call upon her as a Witness, for that my Lady never had a Child; and she could not do them any Service by her Evidence, but that she would make against them.

Lord Chief Baron. Gentlemen, you that are of Council with the Plaintiff may now reply. Whatever Objections you make to the Evidence given on the Part of the Defendant, if you please to state them, the Court will hear you. I would recommend it to you to be as expeditious as you can; for this Cause has already taken up a great Part of our Time.

Mr. *Daley*. My Lords, I would beg your Lordship's Patience, before the Plaintiff's Council reply, only to hear me a Word or two. I have now in my Hand a Record between the Earl of *Anglesey* and *Graham* on a Special Verdict, which found that *Arthur* Lord *Altham* died without Issue; we shall rely upon *Hardress*, who says (472) that a remainder Man shall take Advantage of a Verdict for the particular Tenant.

Mr. *Broad-*

Mr. *Broadſtreet.* We hope your Lordſhips will conſider this material Point. This is a Record of the Verdict, which we beg we may be admitted to read. The Notion in the Family that Lord *Altham* had no Son, is very material, and no Doubt that Verdict was given, on its appearing that my Lord never had a Child.

Court. The Record cannot be read.——Such a Record is no Evidence againſt the Leſſor of the Plaintiff, who is no Party thereto.

Then the Council for the Plaintiff opened the Nature of their Evidence on the Reply, and Mr. Serjeant *Marſhal* ſpoke as follows:

Mr. Serjeant *Marſhal.* My Lords, and Gentlemen of the Jury, it has appeared upon the Evidence of ſeveral of the Witneſſes examined on the Part of the Defendant, that my Lady *Altham* was at the Spring Aſſizes held for the County of *Wexford*, in the Year 1715; and I obſerve, Gentlemen, that moſt of you take Notes of the Proceedings in this Cauſe, the better to refreſh your Memories, of the Time you are to find who has the moſt equitable Right and Title to the Eſtate, now in Diſpute. It would be impoſſible for either myſelf, or the learned Gentlemen, who are of Council on the ſame Side, by any Inſinuations, or falſe Pretences, to impoſe on your Judgments, by making a long Harangue on any Point whatever, without bringing Perſons to ſupport it; and I preſume (with Submiſſion to my Lords) that we have proceeded in the Examination of our Witneſſes in as fair and candid a Manner as ever was practiſed by any Gentlemen in the whole Kingdom. — Truth, Gentlemen, always will prevail; and as our Cauſe is juſt, we are fully perſwaded that you will diſcharge your Conſciences in Regard to the Verdict, and place the Leſſor of the Plaintiff in the quiet Poſſeſſion of what is certainly his Right and Property. As to the Lady *Altham*'s being at *Wexford* Aſſizes at the Time the Defendant would make you believe, I do not doubt but

we shall convince you to the contrary. And, then, Gentlemen, there is another Circumstance which they would lay some Stress upon, and that is her Ladyship's living at *Vice*'s about this Time. To contradict what has been said in that Respect, we have Witnesses of Character and Reputation to prove that her Ladyship did not live at *Vice*'s for more than a Year after the Time that the Defendant's Witnesses have mention'd. The Gentlemen who are of Council with the Defendant would fain have you believe, that the Lessor of the Plaintiff is the Child of *Joan Landy*, and not of the Deceased Lord and Lady *Altham*; that he was a Bastard, and has therefore no Pretence to enjoy the Estate; and many other Matters and Things, which are equally false, and will appear so, before we have gone through the Examination of our Witnesses. As to the Character of *Joan Laffan*, which they have so artfully endeavoured to destroy, we shall call many Persons to speak to that; and then we are pretty certain that Mrs. *Laffan*'s Character will be established, and I hope, that their Lordships and you, Gentlemen, will have as great a Regard to what she has said, as to the Testimony of any Person that has been examined in this Cause. All these Circumstances which I have mentioned will best appear by the Witnesses, for you will undoubtedly have a greater Regard to what they swear, than from my Opening. Here is a Gentleman of Character and Fortune now in Court, who, I believe, can give you some Account of the Assizes held for the County of *Wexford* in 1715; he was present, and was nearly concerned in a material Cause that was try'd at the Crown Bar; and never was out of Court, during the Time of its Sitting. They mistake the Year in which her Ladyship was at *Wexford*. We believe this might be there in 1716; but that she was not there the Year before, we shall make appear, we hope, Gentlemen to your Satisfaction, and for that Purpose shall call Mr. *Calclough*.

First

First Witness on the Reply, *Cæsar Colclough*, Esq; Sworn to the *Voire Dire* and then in Chief. Says, he has seen the Lady *Altham*, and knows Mrs. *Giffard*. Says, he remembers the Trial of Mr. *Masterson*, and Mr. *Walsh*, for he was at the Trial at *Wexford* Assizes. Says, they were indicted for inlisting Men for the Pretender, and they came off with Honour, and Shame to their Prosecutors. Says, he took as much Care as he could to see Justice done them. Says, that Colonel *Toplady* was High Sheriff. Says, he does not remember to have seen Lady *Altham* at that Assizes; and that she cou'd not attend that Trial, and sit near him, but he must have seen her; and believes if she attended the Trial, he should have known it. Says, that he wou'd not have set by any Lady at that Trial, he was so solicitous for Mr. *Masterson*, who was his Relation; and if any Women of Distinction had been there, he believes he should have heard it. Says, he heard she was at the Assizes of *Wexford* in 1716, when Mr. *Doyle* was try'd. Says, he thinks Mr. *Jeremy Sims* was High Sheriff in the Year 1716, and thinks it was the first Time Deponent was on a Grand Jury. Being asked if it was usual for Ladies of Distinction to go to an Assizes on such Trials; says, he never saw a Lady at such Trials. Being asked who was Sheriff the Year before Mr. *Toplady*; says, he looked in the Office at the Castle, and found Mr. *Edwards* was Sheriff the Year before Mr. *Toplady*.

Cross Examined.

Being asked if Mr. *Walsh* and Mr. *Masterson* were related to one another; says, one was Uncle, and the other was his Nephew. Being asked if Gentlewomen do not sometimes go to the Assizes; says, some Gentlewomen do go sometimes. Being asked what was Mrs. *Giffard*'s Husband; says, he was a Justice of the Peace, but a poor Man; says, he should have taken Notice of Lady *Altham* if she had been in Court. Being asked if he believes Mrs. *Giffard* can be believed on her Oath; says, he cannot form a Belief whether she can be believed; as Circumstances happen Persons may change, and that Mrs. *Giffard* is very poor.

Council

Council for the Plaintiff. My Lords, the next Witness we shall produce and examine is Mr. *John Hussy*, relative to the Conversation he had with Mrs. *Heath*.

Second Witness. *John Hussy*, Gent. being sworn and examined, said, that he knows Mrs. *Heath*, and had Conversation with her touching the Plaintiff about two Years and a half ago; said, that a Person came to his House, and asked him what Conversation he had with Mrs. *Heath?* The Deponent answered, it was so long ago that he had almost forgot, but said that Mrs. *Heath* in that Conversation said, that no body knew the Plaintiff's Affairs so well as she did, for that she had lived with his Mother the Lady *Altham*, and that the Duchess of *Buckingham* had sent for her three times, and that she had Discourse with her about the Plaintiff Mr. *Annesley*; said, that he is positive Mrs. *Heath* said the Lady his Mother, and further said, that the young Man is much injured, but did not remember that Mrs. *Heath* said she was to get any Thing for coming into *Ireland*; that the Deponent came last into this Kingdom in *July* last, and lives at *Painstown*, in the County of *Kildare*, and hath been acquainted with Mrs *Heath* for five Years past; said, that he spoke of the aforesaid Conversation at his Sister's in *Smithfield*, and told some Body thereof, whose Name he did not remember, in order that the same should be told to the Plaintiff Mr. *Annesley*'s Agent; said, that he saw Mr. *Mac Kircher* some time ago, at the *Globe* Coffee-house, but never spoke to him about this Matter till last *Friday*.

Cross Examin'd:

Says, he came to *Ireland* the latter End of *July*, and lives at a Place called *Painstown*, near *Rath-Coffee*, in the County of *Kildare*; says, he saw Mrs. *Heath* several times; that his first Acquaintance with her was about five Years ago; says, that he told several times of that Conversation; that he spoke of it to his Sister in *Smithfield*; that he spoke of it in his own House; that he believes he mentioned it now and then since his coming to Town; and that he told it to some Gentlemen in *London*

don, in the Coffee-houſes. Says, he never ſaw Mr. *M'Kercher* till laſt Year in the *Globe* Coffee-houſe; ſays, he lodged in *Orange Court*, near St. *James*'s, in *London*; ſays, he was a Servant to one of the Yachts, and ſometimes dealt in Linen. Being aſked who was in Company when Mrs. *Heath* ſpoke to him; ſays, one Mrs. *Simpſon*, and a young Gentlewoman that lodged up one Pair of Stairs, were in Company, and that Deponent had ſeen Mrs. *Heath* before that in Company with Mrs. *Simpſon*; ſays, that Mrs. *Heath* then lived in a Court about forty Yards from *St. Andrew*'s Church in *Holborn*, and he was to ſee her laſt *July*; that he had Letters for Mrs. *Simpſon*, and that he gave them to Mrs. *Heath*; that he did not ſtay, but left the Letters with Mrs. *Heath*. Says, that at the laſt Converſation he had with her, ſhe told him, ſhe believed ſhe ſhould come to his Country about being a Witneſs for Lord *Angleſey*; ſays, there was no Converſation about the Nature of the Evidence, ſhe only ſaid, that ſhe was to give Evidence for Lord *Angleſey*, but that he did not hear what Evidence ſhe was to give; ſays, that he told her, if ſhe went ſhe ought to be well paid; ſays, he never had any Converſation with her ſince about the Affair; ſays, there was ſome Difference between the firſt Converſation and the laſt Converſation, becauſe ſhe ſeemed concerned for Mr. *Anneſley* the firſt Time the Converſation was about Mr. *Anneſley*, therefore he remember'd the Words, and was poſitive ſhe mentioned Lady *Altham* his Mother. Says, he was employ'd as a Steward in one of the Yachts by the *Board of Green Cloth*. Being aſked what Religion he was of; ſays, he was a *Roman Catholick*.

[*Then the Deponent again gave a long Account of the Manner in which he was ſerved with a* Subpœna *to appear to give his Evidence in the Cauſe.*

Says, he heard the Affair talked of in common Converſation; ſays, he was introduced to Mr. *Mac Kercher*; ſays, he heard that his Name was made uſe of in Court, when Mrs. *Heath* was examined. Being aſk'd how he heard what

what the People swore; says, he heard it by general Rumour; says, he was brought into the Room where the Witnesses were, by the Person who served him with the *Subpœna*; says, he left the Room, and went to *Jee*'s Coffee-House, and left Word where he was.

Court. This Witness has contradicted what Mrs. *Heath* hath sworn, therefore send for her — and Mrs. *Heath* being sent for, and being on the Table in the Presence of Mr. *Hussy*, the said Mrs. *Heath* was sworn again and re-examined.

Said, she knows Mr. *Hussy*, and that he and Mrs. *Simpson* drank Tea with her several Times; after there was a Report that the Plaintiff Mr. *Annesley* was going to sue for the Estate, and said she had Discourse with Mr. *Hussy*, touching the Plaintiff Mr. *Annesley*, but never told the said *Hussy* that the Lady *Altham* was the Plaintiff Mr. *Annesley*'s Mother; but on the contrary always told him that the Plaintiff Mr. *Annesley* had no Right, and that Lady *Altham* never had a Child.

And the said Mr. *Hussy* being further cross examined; said, he never knew before last *Thursday* that he was to be examined as a Witness in this Cause, nor did he the last *July* put Mrs. *Heath* in Mind of what she had before said to the Witness concerning the Plaintiff Mr. *Annesley*, nor did he know whether she intended to contradict what she before said, it being a Matter of Indifference to him, but believed Mrs. *Heath* then said, she was going only upon the Trial of the Earl of *Angleſey*; said, that he doth not know that he did at the Time of the second Conversation recollect what Mrs. *Heath* had before said to him, but hath recollected the same since several Times, having frequently spoken of it before, but doth not know whether he recollected it last *July*.

Council for the Plaintiff. My Lords, we will now call another Witness, *Thomas Higginson*, to prove to your Lord-

Lordſhips and the Jury, that Lady *Altham* was with Child and at *Dunmain* that Aſſizes at *Wexford*, when *Maſterſon* and *Walſh* were tried; that he received Rents for the Earl of *Angleſey* and the Lord *Altham*; and that afterwards it was well known and reported in the Country, and told to the late Earl of *Angleſey*, that her Ladyſhip was brought to Bed of a Son.

Council for the Defendant. My Lords, the Plaintiff's Agent or Attorney did not give in the Name of this Witneſs to the Agent or Attorney for the Defendant.

Court. We cannot ſay any thing to that, the Witneſs muſt be ſworn if the Plaintiff's Council inſiſt on it.

Council for the Plaintiff. My Lords, we inſiſt upon examining this Witneſs, and they may croſs examine him to any thing they have a Mind.

Court, Call the Witneſs; and let him be ſworn firſt to the *Voire dire*, and then in Chief.

Third Witneſs. *Thomas Higginſon* called and ſworn.

Plaintiff's Council. Mr. *Higginſon*, did you know the late Lord and Lady *Altham?*

Higginſon. My Lords, I knew the late Lord and Lady *Altham* very well.

Plaintiff's Council. On what Account were you acquainted with them?

Higginſon. I was Receiver to *Arthur* the late Earl of *Angleſey* from the Year 1711 to 1717. I remember particularly the receiving the Rents of *Clomines*, about two Miles from *Dunmain*, and four from *Roſs*, *Thurſday* before *Eaſter*, in the Year 1715, by this Circumſtance; becauſe I was to go back to *Enniſcorthy*, to Major *Rogers* for Timber, and then was to get Directions whether I was to go to *Wexford*——

Plaintiff's Council. Were you ever at *Dunmain*, or were you in Lord or Lady *Altham*'s Company in the County of *Wexford* that Year you mention.——

Higginſon. On the *Tueſday* after *Eaſter Sunday*, in the Year 1715, I went to Mrs. *Giffard*'s; from thence I went to *Dunmain*; the Coachman's Wife was in the Yard: I aſked her who was at home, ſhe ſaid, my Lady *Altham* ſhe believed was at home, but my Lord was gone

out. I alighted, and put my Horse in the Stable, and went into the House. A Servant-Maid went up to let my Lady know I was below; she immediately came down Stairs, desired me to walk into the Parlour, and then her Ladyship called for a Bottle of White Wine; a Glass was filled for me.——I observed her Ladyship to be very big; and on the second Glass I wished her Ladyship a good Delivery.——

Plaintiff's Council.—Pray how was her Ladyship dressed that Day?

Higginson.—She had a white Handkerchief on, which was loose about her Neck, a white Apron, and a striped Night-Gown.——

Plaintiff's Council.——Pray how long did this Visit continue? did you stay there all Night?

Higginson.—No, I did not stay there much above half an Hour; my Lady asked me to tarry all Night, but I had some Business that called me at *Enniscorthy*, and I went and lay there that Night.——The next Night I lay at Mr. *Hay*'s; and *Thursday* Morning I went to *Wexford*, where I saw my Lord *Altham*, and *John Weedon* the Coachman, and two or three other Servants; and that very Day I paid my Lord a Sum of Money.——

Plaintiff's Council. Did you see Lady *Altham* at *Wexford* that Day?——

Higginson. I did not see her that Day, or enquire if she was there, as I had seen her but two Days before.

Plaintiff's Council. Did you make any Entries of the Sums you received, and of the Days when the same were received.——If you did, give an Account of them.

Higginson. On the *Monday* in that Week I received four Pounds, on *Tuesday* from Mrs. *Giffard* I received ten Pounds, on *Wednesday* I received twenty-eight Pounds, which my Son had received from my Lord's Tenants in the County of *Meath*. These were the Sums I paid my Lord the next Day at *Wexford*.——

Plaintiff's Council.—— Did your Son bring you no more than Twenty Eight Pounds from all his Lordships Tenants in the County of *Meath*.

Higginson. No more at that Time except Thirteen

or

or Fourteen Shillings, which I allowed him for his Expences.

Plaintiff's Council.—How did you know my Lord was at *Wexford*.

Higginſon. I was inform'd of it by Major *Rogers*, at *Enniſcorthy*.

Plaintiff's Council. —— When did you go to *Clonmines*, and how long did you ſtay there.

Higginſon. I went to *Clonmines* on the *Thurſdays* before *Eaſter*, and ſtaid there till the *Monday* following. I lay at Mr. *Sutton*'s all that Time.

Croſs Examined.

Council for the Defendant. Mr. *Higginſon* I deſire to know whether you went firſt to *Dunmain*, or *Enniſcorthy*.

Higginſon. I went to *Dunmain* before I went to *Enniſcorthy*.

Defendant's Council. —— Pray how came you to go to *Dunmain*, had you any Buſineſs there.

Higginſon. I had no Buſineſs then at *Dunmain*, but to aſk how the Family did.

Council for the Defendant. When did you ſet out from the Country? —— When was you ſerved with a Subpœna to attend this Trial?

Higginſon. I left home this Day Fortnight, I was ſerved with a Subpœna the *Saturday* before.

Defendant's Council. —— Your Memory ſeems to be very good, Sir, in Relation to thoſe Sums you received, how came you to be ſo very particular?

Higginſon. I had a few Papers by me, relating to the *Angleſey* Eſtate, I had a great many more but they were taken from me; I was deſired to look over what was left, which I did on *Sunday* Fortnight, and collected theſe Memorandams from them.

Defendant's Council. —— You ſay, Sir, you were Receiver from 1711, to 1717. Did you receive any Rent from Mr. *Houghton* or Mr. *Giffard* in 1713, or the following Years.

Higginſon. I did receive Mr. *Houghton*'s Rent in the Year 1713, and Mr. *Giffard*'s Rent the latter End of

May, but I did not receive any from them in 1714, I believe they paid it to *John White* that Year, I believe it was paid to him those two following Years.

Defendant's Council. —— When and where was it you paid Lord *Altham* this Money you speak of.

Higginson. About Ten o'Clock on a *Thursday* Morning at *Wexford*.

Council for the Defendant. —— I suppose, Mr. *Higginson*, you were frequently at *Dunmain* —— How came you to remember this particular Time.

Higginson. I had not been there for two Years before, I was afraid to go for fear my Lord *Anglesey* should be angry with me.

Council for the Defendant. Did you ever see Lady *Altham* before that Time you went to *Dunmain*.

Higginson. Yes, several Times at *Ross* and at Church.

Defendant's Council. Was this Twenty-eight Pounds you mentioned, the first Money you ever received from the Tenants in the County of *Meath*.

Higginson. —— No, I had received the Rents from *Meath*, ever since I was appointed the Earl of *Anglesey's* Receiver.

Defendant's Council. When did you hear first of Lady *Altham's* having a Son?

Higginson. —— I was at *Camolin-Park* in the Year 1716, and the *Ross* People were saying to Earl *Arthur*, that Lord *Altham* had a Son, and they wished he had one too, Earl *Arthur* made them Answer, he never expected to have one.

Defendant's Council. —— Pray where do you keep this Book in which you make the Entries of the Receipts of Rents, that were paid by Lord *Altham's* Tenants.

Higginson. —— It is in the Country, I will send for it, if my Lords think proper, and have it here by to morrow: This is the Manner in which I keep my Accounts of the Entries *(he took Pen, Ink and Paper and shew'd them.)*

Defendant's Council. —— I ask you, Sir, whether the People

People at *Canolin-Park*, said to Earl *Arthur*, that Lady *Altham* had a Son?

Higginson. I don't say they said my Lady had, they said my Lord had a Son.

Council for the Defendant. How long did you stay at *Wexford* after you paid my Lord the Money?

Higginson —— I went to my own House that Night.

Council for the Defendant. My Lords, we have no thing more to ask this Witness, and then Mr. *Higginson* went off the Table.

It now being ten o'Clock at Night, the Court by Consent as before, and the Parties by their respective Attorneys having testified their Concurrence, which was read in open Court, adjourned to the next Morning, being *Tuesday* the Twenty-second Day of *November* at ten o' Clock.

The Tenth Day of the TRIAL.

Tuesday, November 22, 1743.

THE Court having met according to Adjournment, and being seated, the Jury were called over, and they severally appearing in the Jury Box, and being likewise seated together.

Court. Gentlemen of Council for the Plaintiff, proceed in your Evidence.

Council for the Plaintiff. My Lords, the Witness we shall begin with this Day is *William Stephens*, to prove to your Lordships and the Jury, the Conversation this Witness had with *Arthur Herd*, (a Witness that has been produced and examined by the Council for the Defendant, the Earl of *Anglesey*, on this Trial) wherein he confessed to this Witness, Mr. *Stephens*, that on the Day when Mr. *Annesley* went into *Ennescorthy*; *Herd* said,

said, that the said Mr. *Annesley* was the right Heir to the *Anglesey* Estate, if Right could take Place.

Court. Call the Witness; who being called, appeared on the Table.

Fourth Witness. *William Stephens* sworn.

Council for the Plaintiff. —— Mr. *Stephens*, Do you know one *Arthur Herd*, and had you ever any, and what Conversation with him?

William Stephens. My Lord, I know *Arthur Herd*, he lives in the same Town I do, at *Enniscorthy*. I had lately some Conversation with him, when he told me, that the young Lord was come to Town; he moreover said, that the Gentleman then in Town (meaning Mr. *Annesley*) was the Right Heir to the *Anglesey* Estate, if Right was to take Place.

Council for the Plaintiff. When was this Conversation?

Stephens. The very Day Mr. *Annesley* came to the Town of *Enniscorthy*.

Council for the Plaintiff. Did you ever hear him say any Thing of the late Lady *Altham*'s having a Son?

Stephens. No, I never did.

Cross Examined.

Defendant's Council. —— *William Stephens*, I desire you will repeat to the Court and the Jury, the very Words that *Arthur Herd* said to you at *Enniscorthy*.

Stephens. The Day the Gentleman (Mr. *Annesley*) came to Town, a great Croud of People were gathered together in the Street; seeing *Arthur Herd* standing at his Door, I asked him the Occasion of that Concourse of People, he said they were looking at the Gentleman who was putting in for the *Anglesey* Estate, and he said that he was the young Lord, if Right was to take Place.

Defendant's Council. Do you think *Arthur Herd* is to be believed on his Oath.

Stephens. —— Indeed, I believe he is.

Defendant's

Defendant's Council. Did you ever mention this Converſation to any Perſon?

Stephens. —— Yes, I told *Bartholomew Furlong*, the very Words I have now mentioned.

Defendant's Council. Did you know that *Herd* was come up to this Town to be an Evidence, and for whom he was to give Evidence?

Stephens. I heard from ſeveral People at *Enniſcorthy*, that *Herd* was gone up about this Tryal, but I never heard who he was to give Evidence for.

Defendant's Council. Pray, Sir, when and where was you ſerved with a Subpœna, and who was it that ſerved you?

Stephens. I was ſerved with a Subpœna laſt Sunday in *Enniſcorthy*, by one *O Neil.*

Defendant's Council. I deſire you will relate what Converſation you had with *O Neil*, I ſuppoſe he informed you of the Subject you was to give Evidence to. I preſume he bore your Expences.

Stephens. He only ſerved me with the Subpœna, and gave me a Shilling with it. I declare that I never received any Gratuity, or other Conſideration towards my Charges from him or any other Perſon, and that *O Neil* never told me what I was to be examined about.

Defendant's Council. Pray, Sir, what Buſineſs do you follow, how did you come to Town, have you any Eſtate?

Stephens. I keep a Publick Houſe, I came to Town on a hired Horſe, though I don't know who hired him, I have neither Eſtate nor Farm.

Council for the Plaintiff. My Lords, we will call one other Witneſs, *William Hort*, to prove that *Arthur Herd* ſpoke to this Witneſs in another Converſation to the ſame Effect, as we have already proved by Mr. *Stephens*, of the Leſſor of the Plaintiff's being the true Heir to the *Angleſey* Eſtate.

Fifth Witneſs. *William Hort*, Sworn to the *Voire Dire.*

Plaintiff's

Plaintiff's Council. Are you Subpœna'd in this Cauſe? and when did you come to Town?

Hort. I came to Town laſt Night, but I never was Subpœna'd.

Plaintiff's Council. Have you received any Reward, or are you promiſed any from the Plaintiff, or any other Perſon?

Hort. I never have received or been promiſed any, I have not ſo much as had a Mug of Ale.

Plaintiff's Council. Do you know *Arthur Herd*, and how long have you known him?

Hort. I know *Arthur Herd* very well, and have known him theſe Fifteen or Sixteen Years.

Plaintiff's Council. Relate the Converſation that happened with you and *Herd*, in Relation to the Plaintiff Mr. *Anneſley*, in *Herd*'s Shop at *Enniſcorthy*.

Hort. I carried ſome Hair to *Herd*'s Shop to have a Wig made on it, and falling into Diſcourſe about the young Gentleman that had been in Town, and the Lord *Angleſey*'s Eſtate, *Herd* ſaid to me, he verily believed *James Anneſley*, Eſq; was the true Heir to the *Angleſey* Eſtate, and that the preſent Earl of *Angleſey* was not. I made him Anſwer, I knew him both at *Dunmain* and *Roſs*, when he was a Child, for I am a Stay-maker by Trade, and I remember'd I had made Stays for Maſter *Anneſley*.

Croſs Examined.

Defendant's Council. Your Name is *William Hort*, you ſay, What Age are you? Where do you live?

Hort. My Name is *Hort*, I am Fifty-three Years of Age come next *Candlemas* —— and I have lived in the Town of *Enniſcorthy* going on of Four and Twenty Years.

Defendant's Council. Pray what Buſineſs brought you to Town?

Hort. I heard this Tryal was coming on by a Gentleman in the Country, that had a Letter about it.

Defendant's Council. What! had you any Intereſt in the Event of it? had you any Subpœna?

Hort. No, I have no Intereſt in it, I have had no Subpœna,

Subpœna, but my Conſcience pricked me, and I was reſolved to come to Town to do Mr. *Annesley* all the Juſtice that lay in my Power, from what I heard *Arthur Herd* ſay.

Defendant's Council. How came you to conclude you could be ſerviceable to Mr *Annesley* by relating what *Arthur Herd* told you? Did you know what *Herd* had ſworn on this Tryal?

Hort. There came a Letter to Mrs. *Sinnot* at *Enniſcorthy*, giving an Account that the Tryal was going againſt the young Gentleman; Mrs. *Sinnot* ſhewed me the Letter, there was a great deal in it, relating to *Herd*'s ſwearing the Plaintiff was my late Lord *Altham*'s Baſtard Son by one *Landy*.——I remembering what *Herd* had ſaid to me, told Mrs. *Sinnot* I would go up and declare what I had heard *Herd* ſay.

Defendant's Council. Pray when was this Converſation of yours with Mrs. *Sinnot*? 'Tis odd you ſhould ſet out from *Enniſcorthy* when you heard the Tryal was going againſt the young Man, and probably almoſt over.

Hort. 'Twas laſt Monday was a Week Mrs. *Sinnot* ſhewed me the Letter; I did not know the Tryal was almoſt over, and if it had been quite over, I could have found my Way back again.

Council for the Plaintiff. The next Witneſs we ſhall beg Leave to examine is *John Ryan*, who will give your Lordſhips and the Jury, an Account of the Converſation between him and Father *Michael Downs*, what *Downs* ſaid he was to have for giving Teſtimony on Behalf of the Defendant, and of the ſaid *Downs*'s Intention to apply for Abſolution.

Court. Call the Witneſs and let him be examined.

Sixth Witneſs. *John Ryan*, ſworn.

Council for the Plaintiff. Mr. *Ryan*, Do you know Father *Michael Downs*? Had you ever any and what Converſation with him?

John Ryan. I know Mr. *Downs*, and had ſome

Converſation with him, amongſt other Things about the Lord *Altham*'s Son; he ſaid, he would ſwear that Lord *Altham* ſaid to the Boy, *Get up you Baſtard, and ſalute the Gentleman that made a Chriſtian of you.* He ſaid he would ſwear this, and was to have Two hundred Pounds for Baniſhing him.

Council for the Plaintiff. Where was this Diſcourſe? and what Anſwer did you make to him?

Ryan. I bid him be careful what he ſaid, for that through a length of Time his Memory might be ſtack, and that he ought not to ſay any thing he was not ſure on; he then made Anſwer, *If I ſhould happen to be miſtaken, you muſt apply for an Abſolution for me.* This Diſcourſe was on a Sunday laſt Year.

Plaintiff's Council. Pray, what did you apprehend Mr. *Downs* meant by his ſaying he was to have Two hundred Pounds for Baniſhing Mr. *Anneſley?*

Ryan. I underſtood him to mean by being baniſhed, that if Mr. *Anneſley* was defeated, or miſcarried in this Suit, he would be obliged to fly this Kingdom.

Council for the Plaintiff. Did *Downs* ever apply to you to procure him Abſolution from any Prieſt?

Ryan. He never did apply to me, nor any Body elſe, that I heard of.

Croſs Examined.

Defendant's Council. Pray, Sir, what Religion do you profeſs? You are a Popiſh Prieſt, are you not?

Ryan. My Lords, I am a Roman Catholick, but I hope I am at Liberty to wave the latter Part of the Gentleman's Queſtion.

Court. You are at your Liberty whether you will Anſwer that Queſtion.

Defendant's Council. Pray, had you any Buſineſs with Mr. *Downs?* how came you into his Company to diſcourſe with him about Mr. *Anneſley?*

Ryan. I went to pay Mr. *Downs* a Viſit, becauſe we are Neighbours in the Country, and not to diſcourſe with him about the Trial.

Defendant's

Defendant's Council. Did he tell you his Intention in swearing in this Cause? Did he tell you he was bribed?

Ryan. I don't say that he did, but by his telling me he was to have Two hundred Pounds for banishing Mr. *Annesley*, I looked upon him to be, and I am afraid he was corrupted?

Defendant's Council. What do you mean by being corrupted?

Ryan. I mean a Falsehood that *Downs* was to swear.

Defendant's Council. You told you were Mr. *Downs*'s Neighbour, where do you live, and what is his Character?

Ryan. He is looked upon to be a loose weak Man, and whatever Secrets or Conversation he hears, he immediately goes and discovers them. I live in the next Parish to him.

Defendant's Council. Will a Priest in the Church of *Rome* give you Absolution to swear Perjury?

Ryan. They will not give Absolution to swear Perjury; but if a Person should commit Perjury, by a sincere Repentance, he might obtain Absolution from them.

Court. Call *Michael Downs*, and let him be sworn and put on the Table; which was accordingly done.

Defendant's Council. Mr. *Downs*, Do you know the Deponent *John Ryan*? who is on the Table with you? when did you see him last, and what Conversation had you with him?

Downs. I know Mr. *Ryan* the Deponent; I saw him last *Easter*, but I had no remarkable Conversation with him.

Court. Witness, *Ryan*, Do you hear what *Downs* says?

Ryan. My Lords, I do, but I insist upon it, I saw *Downs* on a Sunday last Harvest was Twelve Months, I had a good deal of Conversation with him, and by the same Token I rode with him to *Tentam*, where *Downs* just went into the Place where he used to say

Mass; he immediately came out again, and said he could not stay then to say Mass, for that same Person was to be buried, and he must go and perform the Ceremony.

Court. Downs, Do you hear what the Witness *Ryan* says?

Downs. My Lords, I do, and believe what he now says to be true, but I absolutely deny that I ever said to him, I was to have Two hundred Pounds to banish Mr. *Annesley*, or that I had applied or intended to apply for Absolution to forswear myself, or any Thing like it. But, my Lords, this *Ryan* is not to be believed, for he is a Drunken Idle Whore-master, and therefore not to be believed! and I protest I never said any Thing to *Ryan* about his procuring me Absolution, nor had I ever any such Conversation with him to that or the like Effect.

Mr. *Baron Mountney. Downs*, did you know the late Lord *Altham*, and the present Earl of *Anglesey*, have you got, or have you received, or are you promised any Money to give your Evidence in this Cause?

Downs. My Lords, I did know *Arthur* late Lord *Altham*, and have also known the present Earl of *Anglesey* many Years, and upon my Oath I never had or received any Money from him or any other Person, or have I been promised any Money to give my Testimony in this Cause; and my Lords, Captain *Loftus*, and the present Sovereign of the Town of *Ross*, who are now in this City, and all the Gentlemen in that Part of the Country will give a good Character of me.

Court. Downs, The Gentlemen says they have done with you, so you may withdraw.

Council for the Defendant. My Lords, we desire leave to farther Cross-examine *Ryan*.

Court. You may if you please.

Council for the Defendant. Mr. *Ryan* where do you live now?

Ryan. I live in the County of *Wexford*, between *Enniscorthy* and *Wexford*, and have lived there these three Years.

Defendant's

Defendant's Council. Where did you live before?

Ryan. I lived at a Place called *Aghabee* near *Phillipstown*, in the King's County near two Years.

Defendant's Council. Who did you know in that County? Have you any Persons of Credit that will give you a Character?

Ryan. My Lords, I know Mr. *Beggs* and Mr. *Webb* in that County, I know Father *Derby Cleary*, who is the Priest of *Aghabee*; they will all give me a good Character, and several other Gentlemen in the County.

Defendant's Council. Mr. *Ryan*, you heard what Mr. *Downs* said, who was just now on the Table with you, in relation to his applying for Absolution, I ask you Sir upon your Oath, whether he said those Words to you?

Ryan. Upon my Oath he did.

Defendant's Council. How came you to be examined as a Witness in this Cause?

Ryan. I did not voluntarily come to this Town to be examin'd as a Witness, but on the contrary I kept out of the Way, for fear of being served with a Subpœna.

Defendant's Council. Did you go with this Account to the Plaintiff or his Agents, or how came it to their Knowledge?

Ryan. I was speaking to some of the People of *Ross*, of what had happen'd in my Conversation with Mr. *Downs*, and I believe some of them might inform the Managers for the Plaintiff Mr. *Annesley*, who I heard had been to enquire after me.

Council for the Defendant. When did you mention this Conversation, and who did you speak of it to?

Ryan. I spoke of it to several People, particularly to one *Hickie*, a Priest, that goes up and down the Country; and also told it to one *Kelly*.——'Tis about a Fortnight ago that I told Mr. *Hickie* of it.

Council for the Defendant. I suppose you were paid for your Information; I hope you had some Reward for it from the Plaintiff, or those concerned for him.

Ryan.

Ryan. No, I had no Reward for discovering the false, nor do not desire any.

Council for the Defendant. How did you know this Trial was in Hearing, and that Father *Downs* was come to *Dublin* to be a Witness in this Cause?

Ryan. I was in Company with three Gentlemen in the Town of *Ross*, and they told me the Trial was come on, and that Father *Downs* was summoned for the Defendant, on which I related to them what had passed between me and *Downs*.

Council for the Defendant. I think you say you told this Conversation between *Downs* and you to one *Kelly*; pray, at that Time when you told this to *Kelly*, did you know he collected Witnesses for the Plaintiff?

Ryan. No, I never knew that he was concerned for Mr. *Annesley* till I came to *Dublin*.

Council for the Defendant. Where do you lodge in this Town?

Ryan. At the *White Horse* in *Pill-Lane*.

Council for the Defendant. What, you are entertain'd with the rest of the Plaintiff's Witnesses?—was you ever at the Inn before?

Ryan. No, I never was at that Inn before; I came up to *Dublin* in Company with Mr. *Kelly*, and he recommended me to the Inn, he lodged there himself; the Plaintiff's and Defendant's Witnesses might be both there for ought I knew.

Council for the Defendant. I suppose, Sir, you was introduced by Mr. *Kelly* to Mr. *M'Kirther* or Mr. *Annesley*. I desire you will answer that Question.

Ryan. I never was introduced to either of them; I went to the Inn to fetch my Horse away, and I saw Mr. *Annesley* there before ever I was served with a *Subpœna*.

Council for the Defendant. How came you to go to fetch your Horse away?

Ryan. I heard, after I had been a few Hours in Town, that Mr. *Annesley*'s Witnesses were there, and I had a Mind to lodge at another Place. But when I went I found an Action laid upon my Horse by *Kelly*, and the Inn-Keeper would not deliver him to me, though I offered

sued to pay him his Demand.—So I was obliged to go to Mr. *Annesley* to desire he would order my Horse to be returned to me; but he said I must go to *Kelly*, it was no Concern of his.

Council for the Defendant. Who was it informed you, that your Horse would be stopt by the Inn-Keeper?

Ryan. It was one *Fottrell* that told me, he said, they heard I was going to another Inn, and they did it to keep me at the *White Horse*.

Council for the Defendant. Do you know the Lord *Mountgarrett?*

Ryan. No; I never saw him in my Life to my Knowledge.

Council for the Defendant. My Lords, we will not take up the Time of the Court unnecessarily, and therefore will not ask this Witness any farther Questions.

Council for the Plaintiff. —— My Lords we must now beg Leave of the Court to read the Will and Codicils of *James* Earl of *Anglesey*; for, my Lords, the Lands which we are suing for are Part of the *Altham*, and not of the *Anglesey* Estate.

Court. Let the Clerk read them. —— The Will of *James* Earl of *Anglesey*, dated the 14th of *May* 1701, being read, Mention is made of the Lands in the Kingdom of *Ireland*, of which he levied a Fine, and suffered a Recovery to *John* Lord *Haversham*, Mr. Justice *Coote*, and *Arthur Annesley*, Esq; his Brother, and to their Heirs and Assigns for ever, is limited to them in Trust for Payment of the Earl *James*'s Debts; then to the Use of his Brother *Arthur* for Life, and to the first and other Sons of *Arthur*, and to his and their Heir Males of their Bodies respectively, and for want of such Issue as above recited to *Richard* Lord *Altham*, and his first and other Son in Tail Male, and on Failure thereof to *Charles Annesley* for Life and his Heirs Male.

Lord Chief Baron. —— What do you read this Will for? Is it to shew that *Arthur* Lord *Altham* is not Tenant in Tail?

Council

Council for the Plaintiff. —— My Lords, that is the Reason of our reading it.

Council for the Defendant. —— My Lords, we must beg Leave before the Plaintiff's Council proceed any farther in reading the Wills and Codicils, to call Colonel *Loftus*, who has been attending several Hours to give a Character of Father *Michael Downs*, and to whom the said *Downs* has appealed for a Character.

Court. Call Colonel *Loftus*.

Colonel *Loftus* being called, appeared and was sworn again.

Council for the Defendant. Sir, We desire you will inform my Lord and the Jury, if you know Father *Michael Downs* of the County of *Wexford*, if you believe him to be an honest Man, and if he bears a good Character in the County where he lives.

Colonel *Loftus*, My Lords, I live near Mr. *Downs* in the Country, he is well esteemed in the Neighbourhood, and I believe, all the Neighbouring Gentlemen will give him a good Word.

Defendant's Council. Do you think the Court may believe him upon his Oath? Do you think he would forswear himself, if he could have an Absolution?

Colonel *Loftus*. I would believe him on his Oath, and think the Jury may, but can't frame any Opinion of his dispensing with his Oath, by an Absolution from the Roman Church, it being a Point of Divinity that is far above my Speculation.

Defendant's Council. Do you remember his being at the Assizes at *Wexford*, when the Pretender's Men, Mr. *Walsh*, and Mr. *Masterson* were tried.

Colonel *Loftus*. I cannot remember that I saw him there, 'tis so long ago, if I did see him I have forgot it.

Mr. Baron *Mountney*. Let somebody be sent for Mrs. *Heath*, Mrs. *Cole*, and *Eleanor Murphy*, we must examine them again, for much of this Cause depends on their Testimony.

Council

Council for the Plaintiff —— My Lords, before we proceed to re-examine the above Witnesses, we must beg Leave to read the Codicils annexed to Earl *James*'s Will, relative to the Lands in the Counties of *Meath* and *Ross*.

Court. Gentlemen, you may go on as you think proper.

Then a Codicil was read, whereby the Lands in the Counties of *Meath* and *Ross*, were limited to *Arthur* Lord *Altham* for Life, and after his Decease to the first and every Son and Sons in Tail-Male, and for want of Issue to his Daughters, and one Thousand Pounds a Piece to the Six Daughters of *John* Lord *Haverstham*, out of his Estates in *Kildare* and *Kilkenny*; and for want of Issue in *Arthur* Lord *Altham*, his Estates in *Meath* and *Ross*, limitted the same to his Brother *Arthur* for Life, and after his Death, to his first and every other Son in Tail-Male, and for want of such Issue to go back as by his Original Will.

That *Arthur* Lord *Altham*'s Estate was not charged with the Payment of his Wife's Jointure, and if it was, *Arthur* Lord *Altham* was to have Restitution out of Earl *James*'s Estates.

Council for the Plaintiff —— My Lords, this first Codicil we have now read, dated the 9th Day of *December* 1701, is to *Arthur* Lord *Altham* for Life, and the Heirs Males of his Body, with Remainders over, so that this Estate for which the Ejectment is brought, of Right belongs to the Lessor of the Plaintiff Mr. *Annesley*.

Council for the Defendant. My Lords, the Will and Codicils make but one Will, and the Limitations and Estates are vested in the Trustees, and, my Lords, the Codicil of *February* 1701, is annexed to the Will of *May* 1701.

Court. Gentlemen, we thought the single Question in this Case was only as to the Legitimacy, before the Court, which is the Matter of Fact?

Council for the Plaintiff. My Lords, *Thomas Higgins*on in his Testimony Yesterday, said, he would send

for his Books of Accounts, wherein he made an Entry of the Monies he received on the *Angleſey* Eſtate, he has ſent to *Enniſcorthy* for them, and they are in Court ready to be produced, if the Council for the Defendant require it.

Thomas Higginſon was brought into Court and aſked if thoſe were his Books of Account.

Council for the Defendant. My Lords, we will not inſiſt on looking over the Books now, Mr. *Higginſon* may withdraw.

And he withdrew accordingly.

Court. ——— Send for *Eleanor Murphy*, and *Mary Doyle*.

They both appeared on the Table, *Mary Doyle* was ordered to withdraw.

Court. Swear *Eleanor Murphy*, which was done, and ſhe was interrogated in the ſtricteſt Manner as follows.

Court. Eleanor Murphy — Did you ever live with Lord and Lady *Altham* at *Dunmain*.

Eleanor Murphy. —— My Lords I did.

Court. How many Years is it ſince?

Eleanor Murphy. ——— About Twenty-eight, or Twenty-nine Years ago, to the beſt of my Remembrance. ——

Court. —— What was your Buſineſs, or what Capacity were you in there?

Eleanor Murphy. —— I was under-Laundry-Maid.

Court. — Who where the other Servants when you was there?

Eleanor Murphy. —— There was Mrs. *Heath*, who was my Lady's Woman, *Anthony Dwyer*, and *Mary Doyle*, there was a Gardener, I think he was called, *Arthur*, but I don't know his other Name.

Court. Did you know one Mrs. *Heſekwright* or *Setwright*, that was the Houſe-keeper.

Elizabeth Murphy. —— No, I never heard of ſuch a Name in the Family.

Court. Pray don't you remember a Houſe-keeper brought

brought to *Dunmain* by Lady *Altham* when my Lord and Lady came from *Dublin*?

Eleanor Murphy. —— There never was any such Person whilst I lived there.

Court. Do you remember any such Servant in the Family as a Man Cook?

Eleanor Murphy —— No, we had no Man Cook, while I lived there, and that was three Quarters of a Year after Lady *Altham* came there.

Court. ——— Pray when you first went into my Lord's Service, were you not employed to weed in the Gardens?

Eleanor Murphy. No, that was not me, there was a young Woman of the same Name as mine — she was called among the Servants, *Black Nell.*

Court. Who hired you into the Family? was not that a House-keeper's Business?

Eleanor Murphy. Mr. *Taylor*, that was the Steward, hired me, he used to hire the Servants, and pay them their Wages.

Court. How came my Lady not to hire you? Did you know you had a Lady in the House?

Eleanor Murphy. I saw my Lady almost every Day, when I was going about my Work, but her Ladyship was above hiring of Servants.

Court. Did you see that Lady before she was brought to Bed? Did she seem big?

Eleanor Murphy. She was very big, and 'twas the common Talk in the Family, that she was with Child.

Court. Did you know *Thomas Rolph* the Butler.

Eleanor Murphy. No, I don't remember that Name, there was a Butler, but I can't say what his Name was.

Court. Call *Thomas Rolph*, who appearing, was sworn.

Court. Let *Eleanor Murphy* continue on the Table, that they may confront one another.

Council for the Defendant. My Lords, we desire that

Mary Doyle, and the other Witnesses for the Plaintiff, whom your Lordships have ordered to be brought into Court, may go into the Court-Room while these Witnesses are examining.

Court. Let it be done, if you think proper, send an Officer with them.

Council for the Defendant. My Lords, we do it that they may not perfect their Evidence from what they may hear from Mr, *Rolph*.

Court. Let *Thomas Rolph* be sworn again, which was accordingly done.

Court. *Rolph*, do you know that Woman on the Table?

Rolph. My Lords, I do not know her.

Court. *Eleanor Murphy*, do you know that Man on the Table?

Eleanor Murphy. My Lords, I swear I never saw him before to my Knowledge.

Court. *Rolph*, give me an Account when you first went to live with Lord *Altham*, what Places you lived at with him, and how long you continued in his Service.

Rolph. My Lords, I came Butler to *Arthur* late Lord *Altham* in the Year 1711, and continued with him till between *Michaelmas* and *Christmas*, in the Year 1715.

Court. — Were you at *Dublin* when the Reconciliation was between your Lord and Lady?

Rolph. — No, my Lord, I was at *Dunmain* at the Time of the Reconciliation, and continued there all the Time of my Lord's being in *Dublin*, and till he came to *Dunmain*.

Council for the Defendant. My Lords, we desire *Eleanor Murphy* may be detained in Court, we have some other Questions to ask her.

Court. She may continue here; but let *Mary Doyle* be called, who appeared and was sworn.

Court. *Mary Doyle*, do you know that Man *Rolph* on the Table?

Doyle.

Doyle. My Lords, I cannot ſay that I ever ſaw him before this Time.

Court. Who was Butler at *Dunmain* when you lived there?

Doyle. My Lords, *Charles Meagher* was Butler when I was there.

Court. How long did you live there before the Child was born?

Doyle. About three Months.

Court. Who was the Butler when you lived there?

Doyle. Charles Meagher, Dennis Redmonds knows that *Meagher* lived there.

Court. Call *Dennis Redmonds*, who was immediately ſent for?

Court. Gentlemen of Council for the Defendant, have you any more Queſtions to aſk *Eleanor Murphy?*

Council for the Defendant. My Lords, I deſire to aſk her how long ſhe lived at *Dunmain* before *Mary Doyle* went to live there, and how long before Lady *Altham* came there from *Dublin?*

Court. Witneſs, you hear the Queſtion.

Eleanor Murphy. I was but juſt come to the Place when my Lady came down; but I was there, I believe a Quarter of a Year before *Mary Doyle* came.

Council for the Defendant. Who did you live with before you came to Lord *Altham*'s?

Eleanor Murphy. I lived at Madam *Butler*'s at *Roſs*, and went from thence directly to Lord *Altham*'s. I had a Diſcharge from Madam *Butler*, which I gave to Mr. *Taylor* when he hired me.

Court. Rolph, was *Joan Laffan* in Lady *Altham*'s Service whilſt you was there?

Rolph. My Lords, *Joan Laffan* was not in the Service whilſt I was there.

Court. Was you in the Houſe at *Dunmain* in *Chriſtmas* 1713, when Lady *Altham* went down there?

Rolph. My Lords, I was.

Court. Eleanor Murphy, was *Dennis Redmonds* at Lord *Altham*'s whilſt you lived there?

Eleanor

Eleanor Murphy. My Lords, *Dennis Redmonds* was there before I went to live at Lord *Altham*'s.

Court. *Rolph*, Do you know that Lord or Lady *Altham* went to *Dublin* after their coming from *Wexford*?

Rolph. My Lords, I do not remember whether Lord or Lady *Altham* went to *Dublin* after their coming from *Wexford*.

Court. Call *Joan Laffan*: She appeared, and was ſworn.

Court. *Rolph*, How much did it coſt you coming over to *Ireland* to Lord *Altham*, and how much going back?

Rolph. My Lords, it coſt me Eight Pounds coming over to *Ireland*, but not ſo much going back.

Court. Did you ever demand any Money from Lord *Altham* towards your Expences?

Rolph. No, I never demanded, nor received any thing towards them.

Court. Gentlemen, if you pleaſe, we will now examine *Joan Laffan*.

Council for the Plaintiff. My Lords, we have not done with *Rolph* yet; but if your Lordſhips pleaſe, we will ſet him by a little while, and then examine him further.

Court. Let *Joan Laffan* be ſworn; which was done.

Court. *Joan Laffan*, do you know *Thomas Rolph*, who is now on the Table?

Joan Laffan. My Lords, I do not know that ever I ſaw him before.

Court. Who was Butler whilſt you was in Lord *Altham*'s Service?

Joan Laffan. *Charles Meagher* was Butler during my Time; I heard there was another Butler there before, but I do not remember his Name.

Court. Were *Eleanor Murphy* or *Mary Doyle*, Servants to Lady *Altham*, whilſt you was there?

Joan Laffan. They both were gone before I went there.

Court.

Court. How long have you been acquainted with them?

Joan Laffan. I have known them above these Twenty Years, they live in the Neighbourhood of *Dunmain.*

Court. Did Mr. *Taylor* hire you as a Servant?

Joan Laffan. No, my Lords, I was hired by Lady *Altham,* at *Dunmain.*

Court. When was it that she hired you?

Joan Laffan. In the Year 1715, after *Michaelmas,* about *Allhallontide.*

Court. Rolph, Did you ever live in *Kent* after you left *Ireland?*

Rolph. No, my Lords, I never did live in *Kent.*

Court. When did you leave *Dunmain?*

Rolph. My Lords, it was after Harvest 1715, that I left *Dunmain.*

Court. When did Lord and Lady *Altham* go to *Dublin?*

Rolph. It was after *Michaelmas* that they went, in the Year 1715.

Court. How long had my Lord *Altham* been at *Dublin,* before you went away?

Rolph. I believe about a Month.

Court. Call *Dennis Redmond,* who appeared and was sworn.

Court. Eleanor Murphy, Where was you at the Time of the great Eclipse?

Eleanor Murphy. My Lords, I remember the great Eclipse, and I was then at *Ross,* it was before I went to live with Lady *Altham.*

Court. How long did you live with Lady *Altham,* before she was brought to Bed?

Eleanor Murphy. My Lords, I lived a Month or six Weeks, before my Lady was brought to Bed.

Court. Dennis Redmond, Do you know *Thomas Rolph,* who is on the Table?

Dennis Redmond. My Lords, I know him, I was Servant at *Dunmain,* when he was.

Court. Rolph, Do you know *Dennis Redmonds*?

Rolph. My Lords, he was the Groom when I lived at *Dunmain*.

Court. Redmonds, Do you know when and upon what Occasion *Rolph* left the Service?

Dennis Redmonds. My Lords, I cannot remember at this Distance of Time, upon what Account he went away.

Court. Who was the Butler at the Christening?

Dennis Redmonds. Charles Meagher was Butler, and gave the Drink.

Court. Mary Doyle, Who was Butler at the Christening?

Mary Doyle. Charles Meagher.

Court. Eleanor Murphy, Who was the Butler at the Christening?

Eleanor Murphy. Charles Meagher, I remember perfectly well was Butler at the Christening.

Court. Rolph, Who succeeded you as Butler? Did not *Charles Meagher*?

Rolph. My Lords, there was no Butler provided when I went away. — I never heard of the Name of *Charles Meagher*, in the Family.

Court. Let *Rolph* withdraw, and set up *Mary Doyle*.

Court. Witness *Doyle*, Where was you when Lady *Altham* was brought to Bed?

Mary Doyle. I was in the Room at that Instant of Time.

Court. Are you sure it was Lady *Altham*? Was there no other Person that might be imposed on you for her?

Doyle. I am very sure it was Lady *Altham*, for I assisted the Midwife, Mrs. *Sheilds*.

Court. Was the Christening a private or a publick One?

Mary Doyle. The Christening was publick — all the Country might know of it.

Court. Were you present at the Christening?

Mary

Mary Doyle. I was present all the Time, Mr. *Lind* of *Ross*, my Lord's Chaplain performed the Ceremony.

Court. Who were the Godfathers and Godmother?

Mary Doyle. Mr. *Anthony Colclough*, and Councellor *Cliff*, were the Godfathers, and Mrs. *Piggot* was the Godmother?

Court. Who was in the Bed Chamber at the Time of Lady *Altham's* being delivered?

Mary Doyle. There was Madam *Butler*, *Nelly Murphy*, and Mrs. *Heath*, my Lady's Woman.

Court. Do you remember Lady *Altham's* being let Blood whilst she was in Labour, or one *Brooks* a Surgeon being sent for?

Mary Doyle. I cannot say I remember any Thing of that.

Court. What Time of the Day was it Lady *Altham* was brought to Bed?

Mary Doyle. It was the latter Part of the Day, almost Duskish, but her Ladyship was near three Hours in Labour.

Court. Who was the Child put to be Nursed by?

Mary Doyle. By *Juggy Landy*, who had been a Servant in the Family, and was married to one *Mac Cormick*.

Court. Were there publick Rejoicings at the Birth and Christening?

Mary Doyle. At the Christening there were great Rejoicings, and Plenty of Wine and other Liquors drank on that Occasion.

Court. Set up *Eleanor Murphy*; which was done.

Court. Witness *Murphy*, Were you a Servant to Lord and Lady *Altham* at *Dunmain*, when Lady *Altham* was brought to Bed?

Eleanor Murphy. My Lords I was, and 'tis about Twenty eight or Twenty nine Years ago.

Court. Were you in the Room when the Child was Born?

Eleanor Murphy. No, I went into the Room imme-

diately after my Lady was delivered, I was order'd to carry in a Bason of Water.

Court. Were you in the Room when the Child was Christened?

Eleanor Murphy. No, but I saw Mr. *Cokeough*, Mr. *Cliff*, and Madam *Piggot* at *Dunmain*, about three Weeks after the Child was Born — the Servants said they were the Gossips — and we had a great Entertainment for a Christening.

Court. Did you know how old *Jane Landy*'s Child was, when Lord *Altham*'s Child was born.

Eleanor Murphy. About three Quarters of a Year old?

Court. Set up *Dennis Redmonds*.

Court. *Redmonds*, how long did you live with Lord *Altham*?

Dennis Redmonds. I was about three Years in my Lord's Service.

Court. What was your Business there?

Dennis Redmonds. I looked after the Hunters.

Court. Was you ever sent for a Midwife for any Woman in Labour at *Dunmain*?

Dennis Redmonds. Mrs. *Heath* sent me to one Mrs. *Sheilds* at *Ross*, she said my Lady *Altham* was ill, and I must bring her with me.

Court. Did you do as you was order'd?

Dennis Redmonds. I went to *Ross*, the Midwife lived over-against the *Barracks* there, I brought her behind me on Horse-back, and set her down in the Yard at *Dunmain*, and while I went to put my Horse in the Stable, she went into the House.

Court. What was the Report in the Family, after you brought the Midwife?

Dennis Redmonds. All the Family and Neighbourhood were overjoyed that my Lord had a Son and Heir.

Court. How long was the Christening of the Child after the Birth?

Redmonds. About three Weeks or a Month at farthest.

Court.

Court. Was there a splendid Entertainment suitable to to such an Occasion.

Redmonds. There was a grand Dinner provided, and Plenty of Liquor of all Sorts given away.

Court. Were there any Rejoicings amongst the Tenants and Neighbours.

Redmonds. There was a very large Bonfire in the Evening, and Plenty of Beer distributed at it.

Court. Was *Thomas Rolph* in the Family, and was he present at any of these Rejoicings.

Redmonds. No, *Thomas Rolph* was gone away some Time before my Lady was brought to Bed.

Court. Do you remember any Misunderstanding between him and the Gardener?

Redmonds. I never heard of it till within these few Days, he mentioned it to me.

Court. Do you know whether Lord and Lady *Altham* were in *Dublin*, or in the Country when *Rolph* went away?

Redmonds. I cannot resolve your Lordships that Question, I will say no more than what I am positive of.

Court. Do you remember that *Joan Landy*'s Child was brought into Lord *Altham*'s House?

Redmonds. No, I never saw any other Child there but Master *Jemmy*, my Lord's Son.

Court. These Witnesses, *Dennis Redmonds*, *Mary Doyle* and *Eleanor Murphy* may withdraw, and let *John Turner* be called.

John Turner sworn again.

Court. Mr. *Turner*, when was you at *Dunmain* in the Year 1714?

Turner. My Lords, I went to *Dunmain*, in *December* 1714, to pay a Visit to Lord *Altham*.

Court. How long do you think you might stay at that Time?

Turner. My Lords, I staid six Weeks, I believe near seven Weeks.

Court. Do you know *Rolph*, who is on the Table, to be a Servant to my Lord *Altham* at that Time?

Council for the Plaintiff. My Lords, I desire to know from Mr. *Turner*, where it was that he saw Lord *Altham* when he was going to the Assizes at *Wexford*.

Mr. *Baron Mountney.* Witness, you hear the Question of the Council.

Turner. My Lords, I overtook his Lordship in the Road, his Lordship was in a Coach. The Horses were in a long Trot, I saw the Coach from a Hill before me in the Road, and I set my Horse on a Three quarters Speed to overtake them.

Council for the Plaintiff. Was not two or three Ladies with his Lordship in the Coach?

Turner. No, There was no Body but himself, my Lord asked me to let one of the Men lead my Horse, and come in, and Chat with him.

Council for the Plaintiff. Do you know one Mrs. *Giffard* Sir? Did you see any Woman on Horse-back in my Lord's Retinue?

Turner. No, My Lords, I saw neither Woman nor Girl there; there were only two Men Servants on Horse-back, and one of them took my Horse when I went into my Lord's Coach.

Plaintiff's Council. Then you are very sure Mr. *Turner*, Lady *Altham* was not upon the Road with my Lord?

Turner. My Lords, I am positive of it, for I called at *Duiman* in the Morning, and saw Lady *Altham* there, I left her there, having some Business at the Assizes, and am sure it was the Spring Assizes, when *Welsh* and the others were tried.

Cross Examined again by the Defendant's Council.

Mr. *Prime Serjeant Malone.* Mr. *Turner*, Do you remember any Thing of the great Eclipse?

Turner. I remember the great Eclipse, it was in Summer, or at the Beginning of it.

Prime Serjeant Malone. Was it the Year you went to the Assizes, the Year before, or the Year after?

Turner.

Turner. It was the Year after I went to the Aſſizes.

Prime Serjeant Malone. Do you remember where you was at the Time of the Eclipſe?

Turner. I was then at Mr. *Colclough's*, about Seven Miles from *Wexford*, and was going to *Wexford*.

Prime Serjeant Malone. Sir, I deſire to know what particular Trials were at *Wexford* Aſſizes when you was there?

Turner. I can't ſay I heard the Trials, but the Reports in the Town were, that ſome Priſoners were tried for enliſting Men for the Pretender.

Prime Serjeant Malone. My Lords, we have done with this Witneſs.

Court. Call up the Women, Mrs. *Cole* and Mrs. *Heath*.

And they being called, ſeverally appear'd on the Table, and were ſworn.

Court. Mrs. *Heath*, give an Account who was Butler at *Dunmain* when you went there?

Mary Heath. My Lords, when I firſt went down to *Dunmain*, Mr. *Rolph* was the Butler.

Court. Was there no other Butler while you lived at *Dunmain*?

Mary Heath. My Lords, there was one *Charles Meagher* hired in *Dublin* for a Butler, and ſent down before my Lord and Lady ſet out.

Court. Was not there a Butler left at the Houſe? How came my Lord to hire another?

Heath. The Steward wrote my Lord word that the Butler had a Quarrel with the Gardener, and having beat him unmercifully, was gone off.

Court. When was it that you came up to *Dublin* from *Dunmain* in that Year?

Heath. It was in the Month of *May*.

Court. Do you remember it by any particular Token?

Heath. My Lords, we were at Captain *Anneſley's* Lodgings in *May* 1715, to ſee the Fire-works on the King's Birth-Day.

Court,

Court, How long did you stay in *Dublin* after that?

Heath. We did not leave *Dublin* for a whole Year.

Lord Chief Baron. Mrs. *Heath*, When did Lord and Lady *Altham* go down to *Dunmain*?

Heath. My Lords, the Lord and Lady *Altham* went immediately from Captain *Briscoe*'s down to *Dunmain*.

Court. Mrs. *Cole*, What do you say to that Question?

Mrs. *Cole.* My Lords, the Lord and Lady *Altham* staid three or four Days at my Father's House, and then went to the House of Mrs. *Vice*, and I am certain they lodged at Mrs. *Vice*'s after they left my Father's.

Court. How came Lady *Altham* to leave her Lodgings at your House? Was there any Affront given her?

Mrs. *Cole.* No, My Lords, it was agreed between Lord and Lady *Altham*, that she should go to my Lord's Lodgings, because it would have a better Appearance of their Reconciliation.

Court. When did Lady *Altham* first lodge at your Father's House?

Mrs. *Cole.* About *Christmas* 1713, they lodged there only four or five Days almost, and then went to *Temple-Bar*.

Court. In your first Examination, you said you were at *Dunmain*, what Time did you go there?

Mrs. *Cole.* My Mother went with me to *Dunmain*, on my Lady's Invitation in the Spring of the Year 1714.

Court. Was Lady *Altham* very big with Child when you was there?

Mrs. *Cole.* No, I did not observe her to be big then, she received a Fright about some Saucers while I was there, and miscarried.

Court. Were you disturbed in the Night when this Accident happened?

Mrs. *Cole.* No, my Lords, my Mother got up, I lay with her, and in the Morning I saw the Abortion which

Mrs.

Mrs. *Heath* and my Mother ſaid my Lady had miſcarried of.

Court. Mrs. *Heath*, what do you ſay to what Mrs. *Cole* ſwears.

Heath. My Lords, I never told either Mrs. *Briſcoe*, or the Deponent on the Table, that Lady *Altham* had miſcarried.

Court. Did you call, or bid any other Servant call Mrs. *Briſcoe* up?

Heath. No, my Lords, ſhe was never called up by my Order.

Court. Mrs. *Cole*, where was it, you ſaw this Matter, who was it that ſhewed it to you?

Cole. My Lords, I went to aſk my Lady how ſhe did in the Morning, my Mother ſhewed it to me, and Mrs. *Heath* was preſent.

Court. How did you know it to be what you ſay —How old was you?

Cole. My Lords, I did not know till my Mother told me. —I was about Thirteen Years of Age.

Court. How long was this after the Affair of the Saucers?

Cole. My Lords, it was the very next Day.

Court. Did Lady *Altham* keep her Chamber upon this Illneſs?

Cole. Yes, my Lords, I went in to her Bed-Chamber to ſee her.

Court. Was any Midwife, or Phyſician, ſent for on the Occaſion.

Cole. I did not hear there was.

Court. Mrs. *Heath*, what do you ſay to what Mrs. *Cole* has ſaid?

Heath. My Lords, I ſwear that Lady *Altham* did not keep her Room the Day after the Affair of the Saucers.

Court. Mrs. *Heath*, was it the ſecond Day or the Third, after the Saucers, that your Lady was taken ill?

Heath. My Lords, I don't remember my Lady kept her Room about the Saucers.

Court. Mrs. *Cole*, who was Butler, when you was there?

Cole. Mr. *Rolph* was the Butler, and generally brought in one Courſe.

Court. Mrs. *Cole*, you are ſure Lady *Altham* kept her Room about the Saucers.

Cole. I am ſure ſhe did for ſeven Days.

Court. Theſe Witneſſes may withdraw.

Council for the Plaintiff. My Lords, we have now done with our Evidence.

Council for the Defendant. My Lords, it is too late for us now to ſpeak to the Evidence after ſo long a Trial, and ſo great a Number of Witneſſes that have been examined. We muſt therefore beg of your Lordſhips to give us Time to prepare ourſelves for that Purpoſe.

Court. Gentlemen, to give you as much Time as you can deſire, we will adjourn to *Thurſday* next, that the Council on both Sides may be prepared, fully to ſpeak to this Cauſe —— That the Gentlemen of the Jury may go together early to confer on the Evidence, and accordingly the Court was adjourned to *Thurſday* at half an hour after eight of the Clock in the Morning, then to proceed on the Trial.

The

The Eleventh Day of the TRIAL.

Thurſday, November 24, 1743.

THE Court having met this Morning between eight and nine o'Clock, and being ſeated, the Jury were called over, they ſeverally appear'd and anſwer'd to their Names, and being ſeated together.

Court. Gentlemen of the Jury, this Day was appointed by the Court, on *Tueſday* laſt, for the Council on both Sides to ſpeak fully to this Cauſe, which has laſted ſuch an extraordinary Number of Days, that the Buſineſs of this Opulent City is at a ſtand, and has entirely taken up the Court to the Prejudice of many Suitors, who have waited the Deciſion of their reſpective Claims, we therefore hope you will go through the ſame this Day, therefore Mr. Prime Serjeant, as you promiſed to ſpeak to this Caſe firſt for the Defendant pleaſe to proceed.

Sir *Thomas Taylor.* Foreman of the Jury, my Lords, I am directed by my Fellow-Jurors to know from your Lordſhips what we are entitled to for our Attendance at this Tryal.

Court. Gentlemen, we ſhall take Care you ſhall be all ſatisfied according to the Cuſtom of this Court.

Sir *Thomas Taylor.* It is not that we expect our Expences ſhould be defrayed by the Plaintiff and Defendant, but we are given to underſtand a Guinea a Day is uſually given to a ſpecial Jury, and we hope your Lordſhip will order the Attorneys on both Sides, to ſettle that Matter.

Court. Call Mr. *Charles Caldwell*, Attorney for the Plaintiff, and Mr. *Thomas Burroughs*, Attorney for the Defendant.

Court. Gentlemen, The Jury before they bring in a Verdict in this Cause, have desired the Court, that their Fees may be settled, and paid them, which the Court have thought proper to comply with —— and for that Purpose, demand of you, whether you consent, they shall be paid the accustomed Fees.

After some Demur it was settled at Twelve Pounds each Man.

Court. Gentlemen, you who are the Attorneys, do you agree to pay the Jury One Hundred and Forty-four Pounds, if a Verdict is given for you.

Mr. *Caldwell.* My Lords, I'll answer for the Plaintiff.

Mr. *Burroughs.* —— My Lords, I do agree to this Order of the Court for the Right Honourable the Earl of *Anglesey* Defendant.

[*Then Mr. Prime Serjeant* Malone, *addressed himself to the Court, and hoped that their Lordships would excuse him, if in his Reply he was now going to make, he should be guilty of saying some of the same Things again which he had done in one of his former Speeches upon this Trial.*]

Mr. Prime Serjeant *Malone.* My Lords, I thank your Lordships, for indulging me with so much Time to prepare an Answer to the Evidence on this Tryal, and my Lords, I doubt not, but I shall do it to the Satisfaction of the Court and Jury. —— The single Fact in this Case is — whether the Lessor of the Plaintiff Mr. *James Annesley*, be the legitimate Son of *Arthur* late Lord *Altham*; and my Lords, when the Plaintiff's Cace is stripped of all its outside Ornaments, it will appear to be built on a rotten Foundation.

My Lords, before I speak to the particular Facts as given in Evidence, it will be necessary for me to consider this Family.

Family. And, my Lords, before I proceed to the Evidence, I ſhall, as briefly as poſſible, ſtate to your Lordſhips and the Jury what I have to obſerve concerning the Family of the late Lord *Altham*.

Firſt then, my Lords, I would obſerve to the Court, that *James* Earl of *Angleſey*, who made the Settlement in this Family, and who had the whole Eſtate in him, had Five Sons, *viz.*

John his eldeſt Son.

Richard his ſecond Son, who was Dean of *Exeter* and Prebend of *Weſtminſter*, had Iſſue *Arthur* late Lord *Altham*, and *Richard* the preſent Defendant, who is now Earl of *Angleſey*.

James his third Son, *Charles* his fourth Son, and *Arthur* his fifth and youngeſt Son.

His ſecond Son, *Richard* Lord *Altham*, died in the Year 1701, and was buried in *Weſtminſter-Abbey*, leaving *Arthur* late Lord *Altham* to ſucceed him in Title and Eſtate, and *Richard* the preſent Defendant in this Cauſe, who is now the Right Honourable *Richard* Earl of *Angleſey*.

My Lords, Earl *James* on the 14th of *May* 1701, made his Will, and limited an Eſtate to *Arthur* his youngeſt Son for Life, Remainder to his firſt, and every other Son in Tail Male.

Subſequent to this, on the ninth Day of *December* 1701, Earl *James* made another Will, with a Remainder to *Arthur* late Lord *Altham*; but no Proviſion was made for the Defendant *Richard*, who was then living, and not capable of offending. And the ſame Day Earl *James* made another Codicil, and to the Will of the 10th of *December* 1701, affixed two Codicils; and on the ſecond Day of *January* 1701, made two Codicils more, which were annexed to both Wills.—So the Will of the 14th of *May* 1701, is now ſet up by the Leſſor of the Plaintiff, Mr. *Anneſley*, under which he raſhly preſumes to conteſt with *Richard* Earl of *Angleſey*, his Right to the Eſtate of *Arthur* Lord *Altham*.

My Lords, Earl *James* died in the Year 1701, (the ſame Year his ſecond Son *Richard* did) and Earl *John* died in 1710, without any Iſſue; and Earl *Arthur* became intitled under Fines and Recoveries; and Earl *Arthur* alſo died without Iſſue.

According to this Deſcent, my Lords, *Arthur* late Lord *Altham* was the next who ſucceeded to the Honour, Dignity, Title and Eſtate of Earl *Arthur*. But ſo it happened, and I believe it has been made appear to the Satisfaction of your Lordſhips, and the Gentlemen of the Jury, from the Defendant's Evidence, that *Arthur* late Lord *Altham* died without Iſſue, that he left no Son, no Child at all, either Male or Female, to ſucceed him in his Honour, Dignity, Title and Eſtate.

And indeed, my Lords and Gentlemen, it is ſomething ſtrange and incredible too, that *Arthur*, late Lord *Altham*, ſhould have a Son born of his own Wife, *Mary* Daughter to the Duke of *Buckingham*, and that his Neighbours, his Tradeſmen, his Tenants, Friends, and Acquaintance, among whom he lived, and who frequently reſorted to his Houſe, ſhould never ſo much as hear of, or ſee the Son, now pretended by the Plaintiff in this Cauſe, to be the Heir of the ſaid *Arthur* Lord *Altham*; I ſay, my Lords, it is a very ſurprizing Circumſtance, and requires your ſerious Conſideration.

But, my Lords and Gentlemen, this Event is attended with another Circumſtance equally aſtoniſhing, — and that is, my Lords, that none of the News Papers of that Time ſo much as mention, that the late Lord *Altham* had a Son. — Certainly had his Lordſhip been bleſſed with a Legitimate Son, the Weekly Papers of that Time would of Courſe have rung with the Report thereof. I need not inform the Court, that it is the conſtant Cuſtom of the News Writers, to fill their Papers with Paragraphs of this Sort; it is ſo notorious that every Day in all the Daily Papers and weekly Journals, both in this Kingdom and in *England*, any one may read, The Lady of ——— was Yeſterday ſafely deliver'd of a Son at ——— to the great Joy of that noble Family, which laſt Words the News-writers gene-

ral y

rally add, when the Lady of ſuch a noble Family has been many Years married, and not till then had a Child.———

My Lords, it is an almoſt cuſtomary Thing, where a Birth of that Sort is neglected to be taken Notice of, that ſome of the Family, or Well-wiſhers to them, take care to have them inſerted in the publick Papers, by a Gratuity to the Printers.——And yet, my Lords, by a general, by the ſtricteſt and moſt minute Search into all the News-papers, Courants, and Journals of that Time in this Kingdom, there is not the leaſt Mention made of ſuch a Circumſtance.———My Lords, it is very worthy of your Obſervation, and it is generally the Caſe, that when a noble Family has been many Years without an Heir, the Eyes of the whole World are upon them; and when it ſo happens that they have a legitimate Heir, it becomes ſo ſurpriſing that all People muſt take Notice of it. The Notoriety of the Fact muſt be known to the Publick, it is almoſt an Impoſſibility, let People be ever ſo much inclined to conceal a Child; but in the Caſe which is now before the Court, even the Family themſelves did not know it, the Neighbours, the Country, Relations nor Acquaintance. My Lords, it was a Secret to thoſe who were intereſted in the Succeſſion, and much more ſo to the whole World. The Evidence, my Lords, upon which the Plaintiff founds his Pretenſions, are two or three of the meaneſt Servants of Lord *Altham*'s Family, which ſhews the Weakneſs of the Cauſe he has undertaken.

My Lords, as to the Proofs which the Plaintiff has advanced to ſupport his Pretenſions, I muſt take Notice of that concerning the Fondneſs ſhewn by my Lord to the Plaintiff when a Child. — This, my Lords, is far from being any Reaſon that the Plaintiff is the Legitimate Son and Heir of Lord *Altham*. A Man may and often is fond of his Baſtard Son, and why ſhould he not? There is the Ceremony of Marriage, the Cuſtoms of the Country, and the Laws of the Land to keep People within Bounds. But if a Man has a Child, becauſe it is not born in Wedlock, is it to periſh or be deſtroyed?

Is

Is he to have his Nose cut off, as one of the *Plaintiff's* Witnesses were inclined. Why should not a Man be as careful of his Offspring by his Servant Maid as that by his own lawful Wife. Nature, Self-Preservation, the Desire a Man has to continue his Species, dictate the same — and there are numberless Instances which might be produced to shew, how fond Parents have been and are of their illegitimate Offspring, and some have even disinherited their legitimate Children in Favour of their illegimate; so that, my Lords and Gentlemen, this is no Argument, I mean Lord *Altham's* Fondness of the Plaintiff when a Boy, is no Proof, no Certainty that he was his Lordship's Son and Heir.

It is evident, my Lords, that the Plaintiff has fail'd in proving what he lays down as the Foundation on which he raises the Superstructure, the Birth of a Child, and by his own shewing destroys the very Credibility of his Pretensions, and this he has effectually done by making it appear that Lady *Altham* underwent two Miscarriages and one Birth within the Compass and Space of but one Year. And though the Plaintiff has brought this to shew, that Lady *Altham* was a very fruitful Woman, yet the Jury themselves, I doubt not, from their own Observations in Life will readily see how unlikely, how impossible a Thing it is for a Woman to miscarry twice in one Year. One of those Miscarriages is very distant from the other, and yet within that very Year, be brought to Bed of a Son.

My Lords, we of the Side of the Defendant do readily admit, that Lord and Lady *Altham* were married in the Year 1706, that they parted in 1709, and that they were reconciled in the Year 1713.—Here was a Separation for the Space of four Years. Lord and Lady *Altham* did not cohabit and live together as Man and Wife all that Time. The Occasion of their Separation, their falling out a second time, was known and credited by the whole Country round about *Dunmain* and *Ross*. The Neighbours of Lord and Lady *Altham* are likewise Witnesses of their Separation. Now, as to the Reconciliation of Lord and Lady *Altham* after so long a Seperation, the Event must of Course excite the Curiosity,

and

and draw the Attention of the Neighbours and Gentry in that Part of the Country, and more particularly as I said before, it must concern the Family who was interested in the Event, I mean the Birth of a Son and Heir to Lord *Altham*. And, my Lords, as there is no sufficient Proof of such a legitimate Birth, as appears there is not from these Considerations, which I have humbly offered, the Jury must, they have a good Foundation to find a Verdict for the Defendant, the Earl of *Anglesey*, and give him Costs.

But my Lords, and Gentlemen of the Jury, the Plaintiff's Council have taken two Methods in Case one of them should fail to prove and support their Cause.

And first they produce the two Daughters of Captain *Briscoe*, viz. *Dorothy Briscoe*, and *Henrietta Coles*.—The first of these tells you that Lady *Altham* came to *Dublin* from *England*, and lodged at her Father's House, in *Bride-street*, the Beginning of the Month of *October*, in the Year 1713, that she was every Day in Lady *Altham*'s Company, during the Six Weeks that she lodged at her Father's, and that she did not believe she was with Child when she came to *Dublin*. She afterwards gives you an Account, of her Mother's introducing the Lady to her Lord and Husband, and after removing and making a short stay at *Vick*'s (a House near the *Ship* at *Temple-Bar*) of their going down to *Dunmain* and Return to *Dublin*, the latter End of the Year, but she does not tell you a Word about a Pregnancy, a Miscarriage, or any Thing to that Purpose; so that the Gentlemen of Council for the Plaintiff had no more Occasion to call Mrs. *Briscoe*, than they had to call Witnesses to prove the Marriage of Lord *Altham*, with the Duke of *Buckingham*'s Daughter, which we granted.

Henritta Coles, the Sister to this Witness, comes and tells the Court that she knew Lord and Lady *Altham*, because they were reconciled at her Father's House in 1713, and that they lodged there some Time about *Christmas*.—This is after the Time the other Witnesses swear to. However, Miss and her Mamma were invited down to my Lord's Country Seat, and she says they did go there about the Spring of the Year 1714. That

Lady *Altham* was with Child while she was there, but received a Fright and Miscarried. —— The occasion of it, she tells you, was, that the Butler brought in some Saucers that my Lord had forbid to come to Table, and that my Lord took them up and threw them in the Chimney just by my Lady, who was at the upper End of the Table. —— This is a very odd piece of History, Gentlemen, I cannot think Lord *Altham* was so ill a bred Man when he had Company at Table, and his Lady, to whom he was so very lately reconciled, to throw the Saucers in the Chimney with such Violence, as to overwhelm his Lady with a Fright and Tears, which the next Night occasion'd a Miscarriage.

My Lords, in this Case the Evidence of Mrs. *Cole*, for the Plaintiff, and Mrs. *Heath* for the Defendant, is by the Court and Jury in my humble Opinion, to be duly weighed and considered.

And, my Lords, as to Mrs. *Cole*, she herself says that at the Time of this Reconciliation she was but a Child, a Girl of about Eleven, Twelve, or Thirteen Years of Age at most. How can it be expected that one so young, at the Distance of Twenty Nine Years, (it is now, my Lords, Twenty Nine Years and upwards since the Reconciliation) should retain any Impressions of an Affair, which at that Time of Day, I mean at the Age of Eleven or Twelve, she could form no Idea of Certainty; the Evidence of Mrs. *Heath* must in this Case prevail with the Court and Jury; Mrs. *Heath*, my Lords, was Lady *Altham*'s Waiting Woman, came from *England* with her, and lived with her Ladyship 'till the Time of her Death. Mrs. *Heath*, my Lords, was then in the Prime of Life, and according to my Instructions, was about Twenty Five Years of Age, a Time of Life when all the Human Faculties are in their full Strength and Vigour, what is done and transacted when a Person is of that Age, may easily be retained, the Judgment is sound, the Intellects strong, and Memory retentive. —— And therefore I will appeal to the common Reason of all Mankind, with Submission to your Lordships in this Particular, whether the Evidence of Mrs. *Cole*, or Mrs. *Heath*, which is vastly different, is to be first preferred.

'Tis

'Tis true, my Lords, that both the Witneſſes were on the Spot, Mrs. *Cole* ſays Lady *Altham* lodged at her Father's Houſe ſix Weeks. Mrs. *Heath* ſays only three Weeks. Mrs. *Cole* was then a Child, and Mrs. *Heath* was a Woman grown. Mrs. *Heath* could not be miſtaken, Mrs. *Cole* might, and therefore, in my Opinion, and I hope it will be alſo the Opinion of the Court and Jury, that the Evidence of *Henrietta Coles*, Captain *Briſcoe*'s Daughter, is of no Avail or Force.

The next Thing, my Lords, this Witneſs tells you, is a long Story of a Miſcarriage Lady *Altham* had at *Dunmain*, when this Witneſs and her Mother were there upon a Viſit. Mrs. *Cole* ſwears that in ſix Weeks after Lady *Altham* left *Dublin*, ſhe and her Mother went to *Dunmain* to the Houſe of Lord *Altham*, but ſhe is not certain whether it was in *April*, *May*, or *June* in the Year 1714. It ſeems ſhe has laid the Time of the Miſcarriage to have been in the Night, and I am apt to think it was a Dream of the Child's, more than any Thing elſe; of the ſame Sort is that of her Mother's being called up, and as to the Abortion, which ſhe ſays ſhe ſaw in a Baſon the next Morning, is a Story which ſhe has told ſo often, that at length ſhe has perſwaded herſelf to believe it true, and thereupon has ſworn it here in Court.

For the Truth however, my Lords, of what Mrs. *Cole* aſſerted, ſhe appealed to Mrs. *Heath* and *Ralph*, and ſays they both knew it to be ſo. But both Mrs. *Heath* and *Ralph* who were Servants to Lord and Lady *Altham*, contradict Mrs. *Cole* in this Point, and poſitively ſay, that they never knew, ſaw, or heard, that Lady *Altham* had miſcarried: And, my Lords, nothing is more likely, nay, I may ſay, that this is certain, that if Lady *Altham* had miſcarried, at the Time pretended, Mrs. *Heath*, being her Ladyſhip's Waiting-Woman, muſt be privy to the Miſcarriage, and as ſhe knows no thing of the Matter, it follows that no ſuch Miſcarriage happened, as Mrs. *Cole* has pretended, and would have the Jury believe.

My Lords, the next Witness is *Alice Bates*, who says, she knew Lady *Altham* in the Year 1713 at Captain *Briscoe*'s in *Bride-street*, and at her Lodgings at Mrs. *Vice*'s in *Essex-street* in *November* 1714. She says that Lady *Altham* was then with Child, and in Order to give her Testimony the greater Weight, relates a Conversation between Lord *Altham* and herself, and remembers these extraordinary Words of my Lord's to her, *By God*, Ally, Moll's *with Child*. To carry her Part of this Farce the further, she wished Lady *Altham* Joy, and that too in Presence of my Lord, to be sure upon this Occasion, it was very necessary for my Lord to be by. She tells you also, that she saw her Ladyship twice or three Times after, and that she observed her growing bigger, because she had an Opportunity of dressing her. It is very likely that she should have Opportunities to dress her who was a Servant-Maid at another House, and that a Woman of Lady *Altham*'s Figure should permit it, who had Servants of her own, but she must go through her Part, she must have been her Ladyship's Dresser, or, Gentlemen, you would not, she imagines, so readily believe she could know whether she was pregnant or not. I believe the Jury very easily discerns the Drift for which this Witness is set up, and it is unnecessary for me to make any Observations on her Evidence. There is such a Medly of Improbabilities that we will proceed to the next Witness.

Who is *Katherine Mac Cormick*. She, Gentlemen, has a great Part given her, first of all she knew Lord and Lady *Altham* when they lodged at Mr. *Vice*'s at *Temple-Bar*, the Year before Queen *Anne* died, in or about the latter End of Summer; she says, the first Time of their lodging there, a Running-Footman came with my Lord's Slippers, and there was a Rumour of my Lord's being married to one of Captain *Briscoe*'s Daughters, but it was afterwards known that Lady *Altham* was come to Town. According to what *Dorothy Briscoe* told us, Lady *Altham* had been in Town six Weeks at her Father's, and should not this Witness, who knew all the other Secrets of the Family, have known of the Reconciliation

of

of this Couple, she does not tell you of their lodging at Captain *Briscoe*'s in the Spring, or of their coming to her Master's House from thence to give a better Grace to the World of the Reconciliation, as Mrs. *Briscoe* did, or of my Lord's lodging there before, but, her Time of Action is fixed for the latter End of the Year, for they could not spare many Witnesses for one Point. However, not to be thought entirely ignorant, she says, there was some Talk in the Family at Mr. *Vice*'s of the Miscarriage at *Dunmain*. But now for her Intelligence. My Lord *Altham* one Evening has Words with Mrs. *Heath*, my Lady's Woman, who sets up her Pipes so as to frighten my Lady, she screams out, Mrs. *Heath* comes and tells my Lord that my Lady had miscarried, or was going to miscarry. There was no great Difference to the Witness, as long as she remember'd the Word Miscarriage, whether she had or had not, tis enough for her Purpose.

But now we must have some Midwives: Mrs. *Cole*, I think had no Midwife in her Miscarriage. But here we have a Couple, Mrs. *Lucas*, and Mrs. *Lawlor*. Certainly from this the Jury believe Lady *Altham* was likely enough to have Children, when they set out with so many Fœtus's. Then she lays all this on Mrs. *Heath*, and says, she told her Lady *Altham* had miscarried, and that she would be a fruitful Woman, only for my Lord's Usage. Here again my Lord is to bear the Blame — he comes home with a Glass too much in his Head one Night, and throws the Stools about. This would bear another Miscarriage very well. However, she had not done it yet, she had as good not have come at all, as to have done her Work by Halfs. Now she tells you, that at a certain time, observing my Lady pretty big, she wished her Ladyship Joy of her little big Belly. —— Pretty little Thing! Lord *Altham* must be made to be by too, as he was at the Discovery of the like Circumstance to *Alice Bates*. My Lord of Course takes Notice of the Joke, and says 'tis a Bull, and in Complement of her Wit, tells her she would make a good Nurse; now to make her Evi-

dence

dence as near as ſhe can of a Piece, here are the neceſſary Things for a teeming Woman, Low heeled Slippers for fear of Stumbling, and thereby occaſioning a Miſcarriage (I wonder we have not had a Miſcarriage yet, occaſioned by a Fall) Jellies and Broths, a Retirement from Company, which made her firſt believe ſhe was with Child, tho' ſhe lived in the Houſe with her, ſhe alſo gave herſelf full Eaſe and Liberty, in a Night Gown.

My Lords, there are ſo many Inconſiſtencies, Contradictions and Abſurdities, between the Depoſitions of this Witneſs, *Catherine Mac Cormick*, and Mrs. *Briſcoe*, that I am afraid I treſpaſs too long on the Patience and Time of your Lordſhips and the Jury. I have already out of their own Mouths, without taking Notice of our own Witneſſes, who I believe your Lordſhips will give Credit to before them, confuted them in numberleſs Poſitions which they have advanced, but I cannot take leave of theſe People, without mentioning one Circumſtance more, and that is, that the Miſcarriage of Lady *Altham* the ſecond Time, ſhould be unknown to Mrs. *Briſcoe*, her Daughters, *Dorothy* and *Henrieta*, or in ſhort any Perſon whatever, but this Evidence *Catherine Mac Cormick*.

This Method, my Lords, they judg'd neceſſary, in order to have this ſham Birth, the more eaſily ſwallowed, and I don't doubt but I ſhall diſſect them and lay them open to the Jury in as clear a Manner as the Sun at Noon-Day.

The next Witneſs, is *Charles Mac Carty*. He comes and tells the Court (becauſe they will have a Multitude of Witneſſes, and ſome of Reputation, which they ſtand enough in need of to ballance ſome of theirs, that I ſhall only ſay are none of the beſt) he tells the Court, I ſay, that he knew Lord and Lady *Altham* in 1715 or 1716, becauſe he was an Inn-keeper, and look'd after the Horſes and Coach — Why don't they bring the Butchers and Bakers, that ſerved the Family with their reſpective Wares, he ſays it was reported Lord *Altham* had a Child. Your Lordſhips have heard ſomething

something on that Head, which we do not oppose; but he does not say indeed it was by his Lady, so that what he has said goes for very little; and, my Lords, they have brought so many of these sorts of Witnesses, who have spoke to so very little Effect, that I shall be obliged to beg Pardon of the Court for almost every Witness of theirs I am to speak to.

We are come now, my Lords and Gentlemen, to the remarkable Period of Time wherein the supposed Birth of the Plaintiff (as Lord and Lady *Altham*'s Son) happened at *Dunmain*, about the latter End of *April* or the beginning of *May* 1715, to prove which they have produced several Witnesses. My Lords, this Entertainment, this Farce of a Succession of Events I must distinguish into different Stages. I am about to begin the second, which, to do methodically, I should do with *Dennis Redmonds*, the Midwife and Maids; but I had rather take the Evidence as given in Court, the next of which is Major *Richard Fitzgerald*, who, though they have produced out of his Turn, furnishes me with two Observations; which are, that this Gentleman, whose Character, for Honour, and Integrity, is so extraordinary good, that I am glad to speak to his Deposition distinctly from theirs; the other is, the Contrivance of theirs, now the Child is to be exhibited, of putting such Honour, such Virtue, so much Truth, so much Constancy in their Front, this Gentleman is brought from the Army on the *Rhine*, whence he comes crowned with Laurels, earn'd in the Service of his gracious Sovereign, and a most magnanimous, though distressed Princess; as he was there successful, they conclude he must be so here, I could be glad, out of the Respect I bear him, to wave a Comment on his Evidence.—What he says, I believe to be true, excuse me, my Lords, I am speaking of it.—He says, in the Year 1714, he was acquainted with Lord *Altham* at a Place called *Prospect-Hall*, in the County of *Waterford*, and also at *Dunmain*; he says he knew Lady *Altham* too.—He then gives an Account of Groaning Drink, a Nurse that he gave half a Guinea to, and a Child; my Lords, we will, out of the Regard we have for this Gentleman's Character, admit all that he has

ſaid to be true, as he was informed; but it is with the leaſt Penetration and Diſcernment anſwer'd and accounted for: Lord *Altham* might brag of his Groaning Drink to this Gentleman. Here was a Company of Officers got over a Bottle at *Roſs*; he had been telling of his Feats; *Joan* having juſt lain in, and when the Major comes to dine with him next Day, by my Lord's Invitation, palms the young By-blow upon him for his Heir; and when the Major imagined Lord *Altham* was in high Spirits for the Birth of a Son and Heir, my Lord was ready to burſt with the Thoughts of having bit them all with the young Kid, in whoſe Compoſition perhaps his Lordſhip had ſome Concern.

My Lords, Major *Fitzgerald* went to *Roſs* that Night from *Dunmain*; he had good Reaſon to remember it, he was attacked by Robbers, we do believe it; but they bring us an Evidence who we ſhall have Occaſion to be more particular with, and that is *Mary Doyle*, who ſwears this Gentleman ſtaid all Night; I believe I need not mention here how little Credit her Depoſition meets with from me.

Gentlemen of the Jury, pray do not miſtake this Matter. You may imagine that Lady *Altham* ſent theſe civil Meſſages to the Gentlemen below; but the Caſe was thus. The Maid who brings the Child into the Room has her Cue from my Lord, what ſhe was to ſay; and my Lady, who knew nothing of the Matter, is made an innocent, but unknown Party of a Jeſt, which is ripened to ſuch a Probability, that, with Gentlemen of leſs Judgment and Abilities than this Jury is compoſed of, it might occaſion ſome Difficulty to determine.

The next Witneſs they bring is *John Turner*. Here comes in an old Man who goes through thick and thin in a very extraordinary Manner; but I muſt be obliged to tranſpoſe his Words, that the Jury may conſider his Evidence as it ought to be.—He relates the Lord *Altham* ſpeaking to him thus.—*John Turner*, you were Seneſchal, that is, Steward to Earl *Arthur* and Earl *John*, and you may be Steward to this Child. I cannot ſay but he was much in the Right of it, when the Places come to be given away, to reſerve the beſt for himſelf. There

are

are fine pickings, Gentlemen, in a Stewardſhip; ſome of thoſe Gentlemen, have been known to poſſeſs the Eſtates that were their Maſters, while they, poor Men! have been reduced to a Morſel of Bread; but as his Expectations are great, ſo ſhould be his Service; he does not come like ſome of the others, and ſpeak to a particular Day or a Circumſtance, but he begins bravely, he tells you, (give me leave, my Lords, to read my Notes on his Evidence through) *that he and his Wife went to Dunmain about the Time of Lent, in the Year* 1714, *and ſtaid there three Weeks* When I come to his Examination on the Reply, which was a few Days afterwards, he ſays quite otherwiſe; for there he ſays, *he went to Dunmain in December* 1714, *and ſtay'd there but ſix Weeks, or perhaps ſeven*; and then being aſk'd farther Queſtions, *he ſaid, that he was there again in the Months of July and Auguſt following*; ſo that by this Part of his Evidence, we may readily conclude, he was not at *Dunmain* at all in *Lent* 1714.

Lady *Altham* (to go on) was big bellied when he went there. The next Time he ſaw Lady *Altham*, ſhe told him, ſhe had a Son —— My Lords, you will obſerve, we don't make very long Periods between one Viſit and the other. —— A Year and a Half afterwards, he ſees the Boy at *Dunmain*, ſtaid a Night and had the Child in his Arms. —— Will the Jury believe this Witneſs could be there, and Maſter not ſhewed to him, but that one Child may not be miſtaken for the other, he ſaw the Lady lead the Child acroſs the Parlour, ſaw the Lord *Altham* kiſs the Child, (very extraordinary) and called him *Jemmy*, ſaw the Child at *Roſs*, at *Kinna*, and at *Carrickduff*. But being at *Dublin*, tho' he ſays he ſaw him ſo often before, and ſeeing the Boy he did not know him, tho' he was told 'twas my Lord's Son. No, I ſhould wonder if he had; this would have ſo much contradicted what the Plaintiff's Witneſſes, who are allotted the Share to paint the Cruelty of an unnatural Father, and the Diſtreſſes of a diſinherited Son, that he knew that very Circumſtance would overthrow all his Evidence. He

ſaw him, he ſays, but he did not think that Perſon he ſaw was Lord *Altham*'s Son. (I mean his lawful Son by his Wife). He judged very rightly, he never knew but for this Purpoſe Lord *Altham* had ſuch a Relation; if he had, and had ſeen him, and had heard Lord *Altham* acknowledge him, and ſeen the fond Mother dandle him in her Arms, as he would have you believe, would he not have gone after this indigent Perſon? Would any Man but this, who has gone through the Work which you have heard he has by his Evidence, have loſt Sight of ſo diſconſolate, ſo poor, ragged, hungry, miſerable Wretch, without a Bounty, without an Enquiry how, for what Cauſe, Purpoſe or Occaſion he became ſo. Can you believe that ſuch Words of Lord *Altham*'s in Relation to this intended Stewardſhip, could be ſaid to a Perſon, and that this Man could tacidly and unconcernedly ſee this expected Maſter of his in that blackguard Pickle, without being ſatisfied how it happened: Of Courſe this muſt overthrow all he would have you believe.

My Lords, I muſt proceed to his Croſs Examination, which I ſtand not in need of to ſhew your Lordſhips the Incoherency of his Words, but that I am inclined to detect the Fallacy and Wickedneſs of theſe People, who by falſe Evidence, and miſconſtrued Relations, would impoſe on the Jury and the World, a baſe born Pretender, unworthy of Nobility, and more ſo of the Eſtate he lays claim to.

On his Croſs Examination, my Lords, this Gentleman, this Mr. Steward, who paid ſuch frequent Viſits in the Family where he ſometimes ſtay'd for a Fortnight or Three Weeks, ſays, that he did not know where my Lord was when he ſaw the Boy in that melancholy Situation in *Dublin*, nor did he enquire about the Child, becauſe he had heard that the Child born at *Dunmain* was dead many Years ago; and yet this Witneſs had frequently, if you will believe him, ſeen the Child at *Roſs*, *Kinna*, and *Carrickduff*; but a little while before, he ſays, it was viſible my Lady was with Child —— I don't ſuppoſe any thing was

inviſible

inviſible to him that we were inclined to enquire after, to ſerve his new Maſter, the Leſſor of the Plaintiff. He knows not who viſited at Lord *Altham*'s, tho' he was there ſo often, neither does he know the Servants, he does not know one Servant by Name, neither Cook, Butler, nor the Chamber-Maid, that made his Bed.

My Lords, I will conclude my Obſervations on the Evidence of this Witneſs with this Remark, that upon his being told the Boy he ſaw in the bad Condition at *Dublin*, was Lord *Altham*'s Son, he thought the Boy born at *Dunmain*, had been dead many Years.

My Lords, he had heard of the Contrivance of one other of the Witneſſes for the Plaintiff, who would have it underſtood that *Joan Landy*'s Child died at *Dunmain*; he had heard, I ſay, of this Contrivance, and inadvertently blends the Tale together, to gain the better Credit, but I hope your Lordſhips and the Jury, will conſider that Intereſt is in his View, and that if he can come at but the Loppings of the Trees, and the griping the poor Tenants, he'll ſtick at nothing to ſerve his Purpoſe.

My Lords, I had almoſt wander'd too far, but it was the Road the Plaintiff's Witneſſes directed me.—— We muſt go back again to *Dunmain*; the greateſt Scene of Iniquity is now to be diſcovered.

Dennis Redmonds, a Stable Boy and Boot-catcher, in the Time of this noble Lord, continues now to live, and the Seeds of Grace having taken but little with him, (who was more uſed to the Stable and Dog-Kennel) he is found out and acquainted with his Taſk; he begins as the reſt do, that he ſaw his Lady with Child, and all the Servants (he tells you) ſay ſhe was with Child: But though, he was then the Boot-catcher, he has now a great Poſt aſſigned him, for he fetched the Midwife, whoſe Name was *Shields*, and brought her from oppoſite the *Barracks* at *Roſs*, behind him. Gentlemen, can you believe, that Lord and Lady *Altham*, People of their Fortune, Figure and Diſtinction, would have ſent a dirty Dog Boy, for a Perſon ſo neceſſary as the Midwife was? Had any of the Horſes, Cows, or even the very Dogs in the Kennel been out of Order, could a more proper Perſon been ſent for Relief for them, than *Dennis Redmonds*? —— But do you believe he was ſent for the Mid-

wife? ——Had there been occasion for a Midwife, would she have been sent for at a Minute's Warning? Would not she have made two or three Visits first before she had been wanted for the happy Minute? Could not my Lord afford to pay for the Attendance of so useful a Person, rather than his Lady, should undergo more Pain and Peril than by that Attendance might be prevented? Was there no Chariot or Coach, or better Servant to send than he?

He also gives you an Account of a Christening, though he owns he was not there, because he knew he would not be believed if he said he had. But for the Parson who christened the Child, and the Godfathers and Godmother, they have taken Care to name only such as have been dead many Years. The first is Mr. *Lloyd*, Lord *Altham*'s Chaplain, Counsellor *Cliff* and Mr. *Colclough*. Godfathers, and Mrs. *Piggott*, Godmother; and that the Nurse who nurs'd the Child was *Joan Landy*, who was preferr'd, as he was told, because she had the best Milk—Bonfires and Rejoicings attend the Christening—very proper! These Things are well thrown in to make the Account more uniform.

Then he gives an Account where *Landy* lived, of her Family, Father and Mother, and a Servant-maid of the House of *Dunmain*, living at *Landy*'s. This is very probable, that the Heir to so great a Fortune should be sent to dwell in such a Hovel as your Lordsh:ps have heard described. Most People of Quality, and many of the inferior Gentry, will keep a Wet Nurse in their House, but this Child they have fixed for the Common; upon the Common they have turned him to graze, and I doubt not but he will be obliged to live upon the Common all the Days of his Life.

However, my Lords, and you Gentlemen of the Jury, though they make Lady *Altham* to part with him to live in this little Cot, yet a Coach-road is made there on Purpose to go and see the Child. At Twelve Months old he is brought into the House again, and in the Beginning of the Year 1717, my Lady went away from *Dunmain* on Account of Mr. *Thomas Palliser*. All this comes from *Dennis Redmond*.

My

My Lords, Lord *Altham* came to *Dunmain* in the Year 1711. *Dennis Redmonds* ſays he lived with Lord *Altham* three Years. This goes to the Year 1714, and yet he relates the Tranſactions of the Family as far as 1717, which is three Years longer than he ſtaid. And therefore whatever he relates of my Lady's Departure from *Dunmain*, and the Tragedy Scene of my Lady's kiſſing the Child at parting, and weeping that ſhe had him not with her, is collected from *Joan Laffan*'s Diſcourſe.

My Lords, this Witneſs is ſo mean a Perſon, that little Regard ought to be given to him, he ought not to be believed. He ſaid, he knew *Rolph* in the Service, but yet being interrogated, he remember'd no Circumſtance relating to him, nor did he know any of the other Servants in the Houſe, but one, and that is *Charles Meagher*, who was not in the Service 'till after the Time of the Birth is over.

They would have produced *Margaret Shircliff* as a Witneſs, but this Gentlewoman not depoſing any Thing directly from her own Knowledge, your Lordſhips were pleaſed to admit our Objection to her Evidence, but, Gentlemen, you will obſerve that ſhe keeps up to the Months and Time as well as the others—*April* or *May* Twenty-nine Years ago.

This Affair, my Lords, pretended to be tranſacted many Years ago, is uſher'd in by very mean People, *Mary Doyle* a Chamber-Maid, and *Eleanor Murphy* a Laundry-Maid, that for my Part I do not believe they were there at all, and from the Meanneſs of their Offices, they could not be employed about the pretended Birth. I ſhall ſhew to your Lordſhips the Diſagreement and Inconſiſtency there is in the Depoſitions of theſe two Witneſſes, *Doyle* and *Murphy*; one of them, my Lords, is perjured even from her own Mouth; *Eleanor Murphy* ſays, that *Mary Doyle* was at Lord *Altham*'s before ſhe was, and that afterwards *Murphy* ſwears that ſhe was in the Service before *Mary Doyle*; Liars ought to have good Memories.

My Lords, the Time of the great Eclipſe is very remarkable, *Murphy* ſwears, ſhe was then a Servant to Mrs.

Mrs. *Butler* in *Roſs*, and that ſhe was there on the Twenty-ſecond of *April*, in the Year 1715, which is the Period the Plaintiff has fixed for the Birth of the Child, and that on the next Day, the Twenty third, ſhe left Mrs. *Butler*'s and went into the Service of Lord *Altham*, at *Dunmain*. In this Caſe *Murphy* muſt be perjur'd, for ſhe ſwears ſhe was at Lord *Altham*'s three Months before her Ladyſhip was brought to Bed; if ſo, my Lords, the Child muſt be born in *July* following.

My Lords, it would be an endleſs Taſk, were I to lay open to your Lordſhips every minute Contradiction and Abſurdity of the Plaintiff's Witneſſes. I am afraid I ſhall go beyond the Time your Lordſhips will allow me, and as I doubt not but you can diſcern what I ſhall be deficient in, I ſhall mention only the moſt material.

In this pretended Birth there is not one Word of Child Bed Linnen mentioned, who made the Damaſk Cloutings, and the neceſſary Utenſils for ſo great an Event. They have been ſo deficient in their Account, that they have not provided a Nurſe for Lady *Altham*. She was not ill or in any Danger, 'twas nothing with them but dropping the Child in the World and ſending it to Nurſe, a Chriſtening indeed could not be avoided, and therefore theſe two Maids muſt agree with the reſt, that the Ceremony of the Chriſtening was performed by Mr. *Lloyd*, and that the Goſſips were Councellor *Cliff*, Mr. *Colclough*, and Mrs. *Piggot*.

Mary Doyle ſwore, that Major *Fitzgerald* laid at *Dunmain*, and ſtaid there ſome Time, and that it was in the Spring.—The Major ſwore it was after Harveſt, he ſaw the Child, and that he only ſtaid the Dinner, for my Lord's Scheme would not have anſwer'd, had he ſtaid longer. Therefore, I preſume, my Lords, from the ſeveral Contradictions in the Behalf of the Leſſor of the Plaintiff, and the apparent Badneſs of his Cauſe, the Plaintiff is under an Abſolute Neceſſity to entitle him to a Verdict, of giving a more clear, credible and diſtinct Account of his Birth; and it is obſervable, my Lords, to what Straits, in regard of Evidence, the Plaintiff has been drove, inſomuch that not one Freeholder of

Ten

Ten Pounds a Year, has been examined on his Behalf, tho' *Dunmain* was ſo very near *Roſs*, a Place of great Buſineſs, the Eſtate of the Plaintiff's pretended Father, the late Lord *Altham*; and this is even attended with another Circumſtance, that the Birth of the Plaintiff is not regiſtered in the Pariſh Regiſtry, where he is pretended to have been born.

My Lords, it is very ſurpriſing that theſe Maids ſhould be ſo lucky to be there at that Time, and ſtay ſo little a while in the Family, had they ſaid they had ſtaid longer, our Proof would have been much fuller againſt them, and I believe your Lordſhips allow it already to be ſufficient.

Mrs. *Deborah Anneſley* ſays, ſhe knew Lord *Altham* at his Seat of *Kinna*, ſhe living at *Ballyſhannon*, which was only three Miles off. This was after my Lord's ſecond Separation with his Wife, and long after the Time that the pretended Birth is fixed at *Dunmain*. She did not viſit my Lord it ſeems, becauſe a Houſe-keeper was there, I need not I believe explain what ſhe meant by a Houſe-keeper: However, ſhe tells you there was a great Intimacy between my Lord and her Brother Mr. *Paul*. And that they uſed often to drink his Son's Health. This was the very Boy indeed, that his Lordſhip took from *Landy*'s, and would it have been proper if Lord *Altham* took the Boy a viſiting, for the People at whoſe Table he was to affront the Child, as Lord *Altham* was pleaſed to take him into Company; 'tis probable he might have an Intention, having no legitimate Children by his Wife, to adopt him for his Son.

My Lords and Gentlemen, what I ſhall next take Notice of, is the appointing a Nurſe for the Child. This was one *Joan Landy*, as is pretended, and ſhe was appointed Nurſe about five Weeks after the Birth, and the Child was with her fifteen Months. The Name of *Joan Landy* was given into the Defendant's Council, as one of the Witneſſes in this Cauſe, and yet through the whole Courſe of the Trial they have not produced and examined her, tho' the Gentlemen of the other Side have promiſed to examine her from Day to Day, but

but being pressed to produce her by us on the Side of the Defendant, they have formed an Excuse and say, that she is a sickly and weakly Woman. And yet, my Lords, if I am rightly informed, she is now in *Dublin*, and perhaps in Court too, and I hope for the Satisfaction of the Jury, the Court will still order them to produce her.

My Lords, nothing is more certain than this, that if what has been advanced concerning the Nursing of the Child be Truth, the Plaintiff would undoubtedly have produced her, and then we should have reaped the Advantage of her Evidence; for *Landy* must know whether she had a Bastard by Lord *Altham*, or whether she nursed any Child for Lord *Altham*; and thus she would have supported the Truth, if any Truth was in it, but this whole Matter is all Fiction and Deceit.

My Lords, *Joan Landy* being a weak Woman, can be no good Reason why the Plaintiff's Council did not produce her, unless the Story be made, and is fictitious; because a Person how weak soever they are may speak the Truth, *Joan Landy* had been longer in the Family, and was better acquainted with the Affairs of it, than either *Murphy* or *Doyle*; and therefore, the Plaintiff may be suspected of Partiality and Contrivance, in not producing an Evidence so material, and whose Name was inserted among the List of Evidences he gave our Attorney, as Persons to be examined on his Behalf.

My Lords, I cannot leave this Point, without begging Leave to observe, that *Mary Doyle* swore, that *Joan Landy*, at the Time she became Nurse to the pretended Child, was married to one *Mac Cormick*, and that *Landy* and her Husband, lived then on the Lands of *Dunmain*, before the Plaintiff was born; now all this, my Lords, is contradicted, by others of the Plaintiff's Witnesses, who have swore, that *Landy* was not married 'till after the Birth of Lord *Altham*'s supposed Son and Heir, and not 'till after Lord *Altham* himself had left *Dunmain*.

That *Joan Landy*, My Lords, was with Child, may be true, otherwise she could not be a Nurse, and she was not married, and her Child must be a Year older than

than the Child pretended to be Lady *Altham*'s. Now considering the Character of *Joan Landy*, that she was a mean, loose and unsound Woman, one greatly addicted to Lust, it is highly improbable, I might say, it is a Thing impossible, that Lady *Altham* should put her Son and Heir under the Care of *Joan Landy*, one, if I may believe my Instructions, who constantly and frequently admitted to her Embraces mean Men, whereby she might contract Disorders, and bring Diseases, Ruin and Destruction on the Child.

Besides, my Lords, it has been proved, that Lady *Altham* turned *Landy* out of her House, because it was reported in the Family, and some how or other got to my Lady's Ears, that Lord *Altham* had gotten her with Child. Is it to be imagined, that this very Woman, so distasteful to Lady *Altham*, should afterwards be pitched upon by her Ladyship as a Nurse for her Son and Heir?

Again, my Lords, is it possible to think, that Lord *Altham* who never had a Child before born of his Lady, (the Earl of *Anglesey* having none, nor being likely to have any) that this only Child, born to great Honour and immense Estates, should be sent from Home, trusted to the Care of so worthless a Creature as *Joan Landy* appears to be, and sent to live, and lie upon Straw in a poor despicable Cabin upon the Common? No, my Lords, had Lord *Altham* had a legitimate Son, he would have been kept at home where he was born, and Nurses and Attendants provided for him, suitable to the Dignity of his Birth, he would have been under the Care and Inspection of his Lady Mother; and my Lord *Altham*, who was desirous of an Heir, must be supposed to be so fond of it, as not to trust the Child out of his Sight.

But, my Lords, in order to cram this Fiction upon us for Truth, *Murphy*, by her Evidence, enlarges, decks, and adorns this Cabbin, white-washes it, and puts Furniture in it (as she thought) fit for the Reception of the Child —— she puts the Child to *Joan Landy*, so young as five Weeks, soon after the Christen-

ing, to one who was a Kitchen Wench, common to Footmen and all Comers, and who was turned out of the House by Lady *Altham*. How improbable all this is, I shall leave to the Court; but I must observe that other Witnesses swear, that Application was made by one *Furlong* to have the Child nursed by his Wife, and though this was an honest Man and Woman, *Furlong* was refused, and *Joan Landy*, though of so abominable a Character, was made Nurse to Lord and Lady *Altham*'s Son and Heir. What a Stock of Credulity is requisite to swallow these Absurdities and Contradictions!

My Lords, If upon the Evidence it had appear'd, that Lord *Altham*'s House at *Dunmain*, was too small to receive a Child and proper Attendants for nursing it, or that there were already a great Number of small Children therein, it would have been a Reason, though a trifling one, that the Plaintiff should have been put out to nurse; but then Discretion would have dictated that the Choice of a Nurse for the Care of the Child, should have fallen rather on *Furlong* than *Landy*, for the Reasons already alledged.

But, my Lords, this was not the Case, the Lord *Altham*'s House was large, there was at this Time no Child at all in it, Room sufficient, and a great Number of Servants to attend.

In order to support what the Gentlemen on the other Side of the Question, call the Probability of their Pretensions, they have produced Evidences to swear, that great Rejoicings and Bonfires were made on this Occasion, and that there was a great Christening, when in Reality there was no such Thing. If any Rejoicings were made, no body but the Evidences knew or ever heard of it; if Bonfires were made, they were made in secret and concealed. Such Absurdities is this whole Affair clogged with! If the Bonfire was made in the Grove adjoining to Lord *Altham*'s House, it must have set the Grove on fire; and if out of the Grove, the Neighbours must certainly have seen it. And from these Circumstances and Improbabilities, it plainly appears, that the Case

Caſe of the Leſſor of the Plaintiff is a made-up Story.

My Lords and Gentlemen of the Jury, I muſt now beg Leave to make ſome Remarks, and to ſhew that the Proof on the Part of the Plaintiff, as to the Credibility, bears no Proportion to that on the Part of my Client the Defendant, the Earl of *Angleſey*. And here I ſhall plainly ſhew, that if a Child begotten by Lord *Altham* was about the Time pretended born, it muſt be the Son of *Joan Landy*, and not of Lady *Altham*.

My Lords, as the Birth of the Plaintiff is made the Foundation of this extraordinary Caſe, it will be neceſſary for me to conſider (ſo far as I have gone) the Proofs given on the Part of the Defendant.

And Firſt, I ſhall conſider that of Mrs. *Heath*, who was Lady *Altham*'s Waiting-Woman, who came over from *England* with her Ladyſhip, and attended her Ladyſhip many Years, even to the Time of Lady *Altham*'s Death, and who muſt have known of the Birth of the Plaintiff, if ſuch Birth had happen'd. And ſhe poſitively ſwears, that Lady *Altham* had no Child whilſt ſhe was in her Ladyſhip's Service; and further ſays, that ſhe never heard that Lady *Altham* ever had a Child. She ſays, ſhe came over with Lady *Altham* in the Year 1713, that ſhe went from *Dublin* after the Reconciliation into the Country with her Lady, and remained with her Ladyſhip till Summer 1715, when ſhe and Lady *Altham* came again to *Dublin*, and ſtaid there a Year and a half. She ſays, that all the Time ſhe lived with Lady *Altham* in *Ireland*, ſhe never was abſent from her Lady's Service, excepting one Week, and that was about *Chriſtmas* 1715. So that Lady *Altham* could not have a Child, neither could ſhe have miſcarried, kept her Room, or been otherwiſe indiſpoſed, without the Knowledge of Mrs. *Heath*, if ſuch a Thing had been. This Evidence is ſupported, my Lords, by that of *Rolph* and *Dwyer*, the firſt Lord *Altham*'s Butler, the other his Gentleman, both of whom ſwear the ſame, theſe being all upper Servants in the Family, are Perſons more likely to ſpeak Truth in a Thing (if it happen'd) ſo remarkable, than *Redmonds*

a Stable-Boy, and *Doyle* and *Murphy* two inferior Servants.

My Lords, it is needless for me to repeat to your Lordship, and the Gentlemen of the Jury, the Evidence of the Persons of Note, Character and Fortune (from the Country where these Things are said to be done) who have been examined in this Trial on the Behalf of the Defendant. They have swore, that they never heard that Lady *Altham* had a Child, nor could she have had any Child without their Knowledge; but I shall appeal to your Lordships and the Gentlemen of the Jury's Notes in that Particular.

My Lords, the Depositions of Mr. *Pallifer* the Elder, and Mr. *Loftus*, are very considerable; the first was intimately acquainted in the Family, visited them frequently, and he solemnly swears, he never heard that my Lord had any lawful Issue; neither did he hear my Lord and Lady say they had, or ever saw any Child at *Dunmain*; the other Gentleman lived in the Neighbourhood, and neither heard of any Birth, or Rejoicings for a Christening.

But, my Lords, there is Mr. *Pallifer* the Younger, who was in the House, and who has been mentioned as the unhappy Cause of their Separation, swears he knows not, nor did he ever hear of any such Child; and *William Napper* swears, he lived in *Ross* Fifty Years, and was concerned in the Family; that he was employed, on the Death of the late Lord *Altham*, to make the Leases of the *Ross* Estate, and that he did enter into Articles about the same; yet that no one ever made any Objection thereto, or said that Lord *Altham* had a Son, and Lady *Altham* lived in that Town three Years after the Separation; and that it was not heard of there, though the Lord *Anglesey* came into the Possession of that Estate, on the Death of *Arthur* late Lord *Altham*.

My Lords, it was very natural for Lady *Altham*, when she was turned out of Doors, and discarded by her Husband, and under very great and weighty Afflictions and Inconveniences, upon all Occasions, and in all Companies, if she had a Son, to have made Mention of him, particularly from the Prospects she might have had of

his

his ſucceeding to ſo large and noble an Eſtate, as well as from a natural Affection ſhe muſt be ſuppoſed to have for her Child, yet it is moſt certain, ſhe never ſpoke to any Perſon whatever to any ſuch Effect.

My Lords, this Evidence is ſo long, that it is impoſſible for one Perſon to ſpeak to it all, and though it may be going into a Part, which the other Gentlemen concerned with me may poſſibly ſpeak to, yet I cannot help taking Notice of *Walſh*'s Evidence, on which ſuch great Streſs is laid: His Teſtimony is quite inconſiſtent with all the other Witneſſes, as to the Time of the Day that Lady *Altham* went into *Roſs* on the Day of the Separation, he ſwears that ſhe came into *Roſs* in the Day Time, and in a one Horſe Chair, and all the reſt of the Evidence ſwears, that ſhe went to *Roſs* in a Four-wheel Chaiſe or Chair, drove by a Coachman; and Mrs. *Heath* ſwears, that the Coachman had Directions to drive to Town when it was near Dark; and ſhe ſwore, that none of the Family at *Butler*'s were at home but the Servants, and that they did not dine there; and if they did not dine there, as Mr. *Walſh* ſaid, then his Teſtimony is not to be credited. And my Lords, the Proof on the Part of the Defendant is ſo general, clear and true, that it cannot be contradicted with the leaſt Shadow of Reaſon, but that on the Part of the Leſſor of the Plaintiff, is ambiguous, falſe, ſcandalous, and ridiculous.

The next dreſs'd up Evidence I ſhall ſpeak to, is *Joan Laffan*, and from her Evidence it plainly appears, and I hope will be admitted, that it was the Child of *Joan Landy*, taken into the Houſe of Lord *Altham*, that ſhe dry-nurſed, if ſhe dry-nurſed any, and not of Lady *Altham*, for the Conſideration mentioned.

My Lords, *Laffan* appears to be a cunning ſenſible Witneſs, but yet ſhe has contradicted herſelf in ſeveral Particulars. — Firſt ſhe came to live with Lady *Altham* in the Year 1716, and that ſhe lived with Col. *Dean*,

'till

'till the Death of Queen *Anne*, and then recollecting herself, she says that in Summer 1715, she went to live with Lady *Altham*, and that the Child was then three or four Months old, so that if the Child was brought home at the Age of Fifteen Months, from *Landy* the Wet Nurse, *Laffan* was a twelve Month in the House before she was wanted to Dry Nurse the Child; and then this Evidence is made to cook up the Credit of *Doyle* and *Murphy*, who if what this Witness said be true of her, coming to *Dunmain* in 1716, they were gone from the Service long before; so that neither way there is no reconciling of her Evidence. And as Truth must sometime or other come out, how could these Persons know how a Nobleman's Child ought to be dressed, that she was Chamber-Maid for Fifteen Months, the Child put under her Care Three Months before the Separation, and that the Child was under her Care a Year and a half, and that the Child was taken out of her Care by *Charles Maegar* the Butler, and brought to *Kinna*, in the County of *Kildare*. All which is a made Story known to no one Person living but herself, as I will plainly shew hereafter.

My Lords, from hence it plainly appears, that *Rolph*'s Evidence is true, that those of *Doyle* and *Murphy* are very far from being so, but stand contradicted from their Appearance on the Table Face to Face, and even there Contradicting each the other. My Lords, *Rolph*'s quitting the Service, going into the Guards, and his Incampment in *Hide-Park*, at the particular Times he mentions, can't be denied.

My Lords, I say that *Joan Laffan*, and all the other Witnesses on the Side of the Plaintiff, contradict each other, for if what *Joan Laffan* says be true, the Child must be put into her Care in the Month of *August*, in the Year 1716, having recollected that she came to live at *Dunmain* in *August* 1715, and she swears that the Child was in her Care for a Year and a half, then her Care of him must cease in *July* or *August* 1717. And Lord *Altham* did not go to live at *Kinna* 'till 1718, so that there is a Year not accounted for, but if you suppose

pose Lord *Altham* went to *Kinna*, the Beginning of the Year 1718, and the Child went there, then there is but a few Months; but to suppose to the contrary, I must take it at the latter End of the Year 1718; but my Lords, admit she came to live at *Dunmain* in the Year 1716, then she swears what will answer truly to the Year 1718, but then my Lords, it will not answer the Business of *Laffan*'s Dry-nursing the Child before the Separation.

My Lords, it is admitted by us, that Lord *Altham* out of his good Nature and Generosity, did suffer the Child of *Joan Landy* to come into his House, and did take Care of him, yet God forbid such a Child, notwithstanding what the Father might say of such a Son, he should be usher'd in and accepted as an Heir to a Family, let his keeping be ever so grand and sumptuous, he being begotten out of Wedlock, and by another Person. The Degrees of Kindness shewn to the Child every where, my Lords, cannot make him legitimate, though the Evidence shews that Lord *Altham* wished the Child had been legitimate, to spite his Brother. My Lords, the introducing a Child as his lawful Son, by his lawful Wife, is such a Method of Speech, that surely can't be believed, such a Method being unusual, uncommon, and therefore very suspicious. What *Misset*, and several other Persons, who have spoke as to the general Report, of the Legitimacy of the Plaintiff; nor, my Lords, what Col. *Piggott* has said, in Relation thereto, cannot, nor ought not be given in Charge to the Jury; for though *Misset* says, that the Boy passed for Lord *Altham*'s Son, when he was at School; he was known by several others to be only his natural Son; and they would not have the Child daunted by his School-Fellows, by laying under an Imputation, that might prove of great Disadvantage to him in his Learning, by subjecting him to Ridicule and Contempt.

Mr. *Cavenagh*, is produced as a Witness of my Lord's Behaviour at *Carrickduff*, to the Child; we do allow my Lord was very tender, and good to him, but he was not my Lord's Son by Lady *Altham*. This Gentleman knew

knew nothing of the parting with the Lady *Altham*, nor ever heard my Lord talk about the Child's Mother, at all, so that his Evidence, like a great many others, from *Kinna* and *Carrickduff*, are of no Consequence, and therefore not worthy to be mention'd.

My Lords, I have now traced the Evidence on both Sides, 'till they have brought the supposed Plaintiff, into *Proper-Lane*, in this City.

The two Witnesses, *John Byrne*, and *Thomas Byrne*, contradict one another. *Thomas* tells you, that he knew Lord *Altham* about twenty Years ago, and remembers that his Lordship left *Proper-Lane* in the Year 1724; that Lord *Altham* had a Boy there that was reputed his Lordship's Son, his Reason for knowing the Boy was, because they played together: It is very extraordinary, that a Lad who went to School, should take such particular Notice when a Nobleman, that lived in the same Street should leave his House; besides, the Boy being reputed his Son, is no Proof that he was his lawful Son; nor so much as Lord *Altham*'s behaving to him so kindly and tenderly, which we admit he did. — *John Byrne* the Father lived in the Country, and *Thomas* looked after the Brewery in Town. — *Thomas* swears it was in *Sept.* 1724, that this Lad came to him in a mean Condition, and that he was lurking about, and living with him for Six Weeks.

My Lords, his boarding at Mrs. *Cooper's*, and going to School to *Dunn's* in *Warborough-street*, and his being with *Dunn* in *September* 1724, and staying with him 'till *Easter* following, plainly contradicts the Testimony of *Thomas Byrne*. — *Dunn* said he called him the young Lord during that Time, and *Byrne* swears that he was a Vagabond, and used to lie in his Father's Stable: But, my Lords, notwithstanding what Lord *Altham* might say to the People where he visited, as well as those that visited him, both at *Kinna* and *Carrickduff*, yet his subsequent Behaviour plainly shews, that he was not his lawful Son, by thrusting him out of Doors at the Age of Seven or Eight Years, when he was not capable of offending a Father so egregiously as to merit such

ſuch Uſage. The Boy was untoward and ungovernable, but by being thus diſcarded, his Lordſhip neceſſitated the Plaintiff to pilfer or ſtarve. But on the contrary my Lords, 'tis very natural to ſuppoſe, allowing the Boy to be an illegitimate Son, Doubts might and would ariſe in the Mind of Lord *Altham*, on the Suſpicion of his Mother's being free with others, ſolves the Difficulty at once, and accounts for this Uſage of Lord *Altham*, towards the Plaintiff.

My Lords, *Arthur* Lord *Altham*, was Tenant in Tail to the *Angleſey* Eſtate, and if he had a Thouſand Sons, he could bar them by levying a Fine, and it would have been his Intereſt ſo to have done, becauſe his Lordſhip could then make a better Title to any Purchaſer, and could greatly enlarge his Eſtate, but if he died without a Son, the Earl of *Angleſey* was his Heir, and therefore the Eſtate muſt be the worſe to the Purchaſer; on the other Hand, my Lords, if Lord *Altham* had a lawful Son, this would have enabled his Lordſhip to have raiſed more Money by the Sale of the Reverſion, becauſe his Lordſhip being Tenant for Life, the having a Son would have gained his Lordſhip Eſteem and Reſpect, and render'd him courted for Honours, the Honours and Eſtate being likely to continue in that Branch; beſides the Chance of Lord *Altham*'s out-living the Earl of *Angleſey*, and he having it in his Power, when his Son came of Age to diſpoſe of the whole Eſtate; but, my Lords, be the Law in this Particular what it will, it appears to have been the ſettled Opinion of the late Lord *Altham*, that his having a Son, would be of infinite Advantage to him, as appears by Mr. *Wall*'s Teſtimony in that Point, his Lordſhip having taken the Advice of Council on that Head; ſo far is it from being likely he was his lawful Son, that he would have been glad he had been really ſo. Would not his Lordſhip then have taken the Boy into his Care, and had him decently, and as a Nobleman's Son ought to have been, clothed, to impoſe on the Publick that he might have ſold the Eſtate for greater Gain, and have enlarged his Power, ſince from the Circumſtances of the late Lord

Altham's Necessities he was obliged to do it, yet, my Lords, this not being done, in my Opinion, plainly shews the contrary.

My Lords, there is another great Circumstance in this Case, which speaks itself, Lady *Altham* from the Year 1719, to the Year 1724, lodged and remained in this City, and never enquired for her Son, or mentioned his Name to any Person whatever, except one Mrs. *Hodgers*, who they have produced, and this Mrs. *Hodgers*, in order to be introduced to her Ladyship, comes on a Pretence that her Lodgings were taken for Lady *Altham*, and that her Ladyship was to board with this Woman, and to pay sixteen or seventeen Pounds a Year for her Board; this is a very likely Story truly, that Lady *Altham* should go in this mean Manner to board with a Person whom her Ladyship had never seen; from what Mrs. *Hodgers* says, she never saw Lady *Altham* but once, and yet she told her she had a Son, but never said any such Thing to Alderman *King*, though she lodged in his House for several Months, and talked to him of her Affairs: And my Lords, Alderman *King* gives a good Character of Mrs. *Heath*, she lived in his House, and he had an Opportunity of observing her to be a prudent and well behaved Woman, and from her Conduct here in Court, that Witness deserves Credit, Mrs. *Heath* tells you, she did look once for Lodgings, and gave a Pistole Earnest to some Person, but on informing her afterwards, they were not fit for her Ladyship, she declares she returned her the Pistole, and that this Person never saw my Lady. Mrs. *Hodgers* does not speak Truth, nor is she to be believed; besides, my Lords, I shall go a little farther on this Head, and observe, that Lady *Altham* did not enquire after her Son, even after the Death of Lord *Altham*, when she had received Notice of her Lord's Death, by a Letter from Mrs. *Mac Mullen*, sent to Mrs. *Heath*, and which was dated the 10th of *November* 1727; which Letter Mrs. *Heath* communicated to her Lady, and her Ladyship read the Letter without the least Comment or Concern,

and

and then never mentioned any thing of her Son; which, had she had one, she would have most certainly done, though she had a Sufficiency from her Father, the Duke of *Buckingham*, to support herself during his Life, and after his Death, from his Lady. And further, Lady *Altham* continued in her perfect Senses to the Time of her Death, yet not so much as mentioned a Son to any Lady that visited her, her Servants, Tradesmen, or any other Person whatever.

My Lords, I am thoroughly persuaded, that if the Circumstances, which the Council on the other Side dwell upon, this Transaction, and the Trial of the Plaintiff for Murder were out of Question, the Lessor of the Plaintiff, Mr. *Annesley*, would have been hooted out of Court for the Attempt; but, my Lords, from these Circumstances it appears, that those are but bare Suspicions, and ought not to have any Influence in the Determination of the Case now before the Court and Jury.

My Lords, the first is the Attempt made before the Transportation, and the second the Attempt of Mr. *Purcell*, a Butcher, to do an Act of Humanity; and this Act of Humanity is usher'd in by *Dominick Farrel*, who, I will shew, is not to be credited: For, in the first Place, he swore, that in the Year 1718 he saw the Child at *Dunmain* with Lady *Altham*, which is not true, from what all the other Witnesses have swore; and that he went to live at *Cork* Eleven Years next *Christmas*; and that the Child was a Year and a half at *Purcell*'s, which is false. So that from thence, by *Purcell*'s Evidence, *Farrel* is not to be believed; and, my Lords, from *Purcell*'s Evidence, his not taking any Care of the Child, and suffering him to ramble abroad, whereby, out of Compassion, the Child was sometimes picked up by one, and sometimes by another, and the Boy calling *Purcell*'s Wife Mistress, plainly shews what *Purcell* thought the Boy to be; and besides *Purcell* says, the Boy went from him in *February*, so that he was a Wanderer, a Stroler, and a Black-Guard, without Shoes or Stockings.

My Lords, the Account of the Transportation is uncommon, being in the Noon-Day, and the Plaintiff carried by the Stall of *Purcell*, who was his best and only

Friend before, and a great Mob, yet that no body ſhould take any Notice of him. Can any one believe, that if the Earl of *Anglesey* had ſuch a wicked Deſign, he would do it at Noon-Day, in the Face of the whole City, when great Danger would have occaſioned its being put in Execution? It might have been done in another Manner, without any Hazard; and in this Point *Byrne* the Conſtable contradicts himſelf; ſo does *Smith* the Servant.

The next Step taken to ſhew the Tranſportation, my Lords, is the Books of *Stephenſon* the Merchant, and the Books of the *Thelſel*; but, my Lords, they are nothing, nor can be Evidence in this Caſe: For it appears from Mr. *Cormick*'s Evidence, that all Perſons were taken in, and went as Servants on their own Account, and for their own Profit, and from which Station many of them have roſe to be very great Men, and by their Diligence have acquired large Tracts of Land. The Name of one *James Annesley* is enter'd in the Merchant's Book, and in the *Thelſel* Book the Name of one *James Hennesley*; and from the Similitude of Expreſſion in the Words, it probably was one and the ſame; for there is no Entry in *Stephenſon*'s Book of the Name of *Hennesley*, and from the Life the Boy had led, and wandring about, it is likely he tranſported himſelf.

It was certainly, my Lords, very unhappy for the Boy, to have been taken into this Family, and received ſo many Marks of Affection from Lord *Altham*, and then to be turned out of Doors: the Boy might be viciouſly inclined, and would be under no Government from Miſs *Gregory*, or the other Servants, when my Lord was abroad, ſo that I ſay, my Lords, it would have been better for the Boy, had he continued with *Landy* his Mother, where, if ſhe was not capable or able to breed him up, the Pariſh muſt, and the Boy might have gone to Service, and done very well in the Neighbourhood where he was known to be born.

The next Thing I ſhall mention, my Lords, is the Proſecution for Murder. In which, my Lords, Mr. *Giffard* is the ſingle Witneſs, and who appears

to

to have been Attorney for the Earl of *Angleſey*, the Defendant for many Years; his appearing voluntarily, and out of the Reach of the Proceſs of this Court, to compel his Appearance, and to diſcover any Thing, that he received from his Client in Truſt and Confidence, and from the Suits commenced between him and the Earl of *Angleſey*, *Giffard* muſt have a Biaſs on his Mind, and his Evidence ought not to be taken as true; and the Defendant ſpeaking to the Witneſs in the Manner he has declared, of *Jenny*'s being the Heir, if you believe the Defendant ſaid ſo, ſurely after that when he knew of the Commencement of this Suit, the Earl would not have quarrell'd with him for a Bill of two or three hundred Pounds Coſts, when he had laid himſelf open to ſuch Inconveniencies, as it was in this Witneſs Power, to accompliſh againſt him.

My Lords, the filing a Bill againſt Mrs. *Heath*, the Proffer of a Lieutenancy to Mr. *Robb*, that mean Way of ſending in ſome Niceties to *Robb*'s, as he kept a Publick Houſe, and tampering with him to come into their Schemes, for if what their Witneſſes ſay be true, as to *Robb*'s being gone from the Family before the Birth of the Child, why ſhould ſuch a large Proffer be made him to give falſe Evidence; it plainly ſhews that no Art or Contrivance, or Hints, that they ſhould be rewarded, has been omitted, to throw Dirt at the Defendant in this Cauſe, and take away his Evidence from him. — My Lords, the Earl of *Angleſey* might be angry, and expreſs his Reſentments in Anger, when he reſented the Proſecution of the ſeveral Suits he was involved in, on all Sides, to make a Propoſal of taking a Sum of Money, to go and live in *France*, where he might be eaſed from the Plague of ſuch Suits, and live quietly; yet that was ſaid in Heat and Paſſion, and without any Intention of his ever doing ſo; and ſhall this be credited, barely from the Mouth of one Witneſs, *Giffard* the Attorney, who appears to be prejudiced to the Defendant; for my Part, I never believe Lord *Angleſey* ſaid ſuch Words to him; it is not reaſonable to imagine, notwithſtanding

withſtanding he was employed by him, in his other Affairs, that he ſhould diſcover himſelf in that manner, to any Perſon whatever.

My Lords, I have taken up ſo much of your Lordſhip's Time, and the Gentlemen of the Jury, in ſpeaking to the Evidence, though there are numberleſs Circumſtances I have omitted, believing your Lordſhips have taken the proper Notice of them, and which the Gentlemen concerned with me on the Part of the Defendant, will fully explain, that I muſt now conclude, with mentioning that a Preſident of this Kind, may and will be deſtructive to every Gentleman and his Family, if he ſhould be fooliſh enough to have a Child by any Common Woman, and that after his Death, his Baſtard ſhould come into the Hands of an artful Set of Men, who ſhould ſet him up to deſtroy the right Heir of the Family, by ſuch Evidence as is dreſſed up for the Leſſor of the Plaintiff. This my Lords, is very different from the Caſe of a Man's cohabiting with a Woman, for though the Law by a Man's calling and acknowledging a Woman as a Wife, and cohabiting with her, allows her a Share of his Effects, and is liable to pay her Debts, yet my Lord's ſometimes calling this Boy Son, is vaſtly different, requires other Proofs and other Evidence than what they have ſet up, to entitle them to a Verdict. Gentlemen, by giving a Verdict againſt the Plaintiff, you will deter Adventurers, and other Perſons (who I am informed have advanced great Sums for this Purpoſe) from uſing or countenancing ſuch Practices and Meaſures for the future, and on the whole, my Lords, I preſume, the Jury will give a Verdict for the Defendant.

N. B. *The foregoing Argument of Mr. Prime Serjeant* Malone, *laſted four Hours and an Half.*

Mr. Solliciter General ſpoke next for the Defendant, the Earl of *Angleſey*. The Attorney General being indiſpoſed, and not attending that Day.

My Lords, Mr. Prime Serjeant has ſpoke ſo fully and

and so clearly on the Evidence on both Sides, that I shall presume only to trouble your Lordships, and the Jury, with making some Observations on the Inconsistency and Absurdity of the Evidence, given on the Part and Behalf of the Lessor of the Plaintiff.

And the first is, my Lords and you Gentlemen of the Jury, as to the first Miscarriage, when the Affair of the China Saucers happened, and which is said to be, or supposed to be the principal and only Occasion of that Miscarriage.

My Lords, it seems that Lord *Altham* was angry that his Servants had brought to the Table certain Saucers, at a Time when Lady *Altham* was at Table, therefore he threw the same at the Butler; but let it be observed, that his Lordship did not throw them, or did he so much as attempt to throw them at his Lady, and it does not appear from the Evidence, nor from the Nature of this Affair, that there was a Cause of Quarrel between Lord and Lady *Altham*; on the contrary, my Lords, I am inclined to think, that the breaking of the Saucers, was rather a Compliment to my Lady; they tell us, they had odd Kind of Figures on them; for my Part, my Lords, I cannot imagine, what Sort of Figures they mean, I apprehend them to be Saucers of a coarse Sort, and as Lord *Altham* forbid them to be brought to Table (he must be supposed to mean) when he had Company that dined with him, that they were not good enough for his Use; therefore I apprehend the throwing of the Saucers, which they interpret into ill Usage from my Lord, not to be the Occasion of the first Miscarriage.

The next Miscarriage, my Lords, is in the Month of *July* following, and this was in *Dublin*, the Account given by *Cormick* of that Affair is so astonishing, and attended with such flagrant Contradictions and Impossibilities, that the bare Mention of it is sufficient to remind the Jury of its Absurdity. Next comes the Birth of the Plaintiff, and where came this Event to pass? Why it seems this happen'd at *Dunmain*, in the County of *Wexford*, at the House of *Arthur* late Lord *Altham*, upon the Estate of that Family, and yet none of that Family ever knew or so much as heard of it, and since, my Lords, it appears that

in the Year 1715 the Earl of *Anglesey* was so infirm and afflicted with the Gout, that his Life was despaired of even by Lord *Altham* himself. It likewise appears, that Lord *Altham* offer'd a Reward to the first Person, that brought him the News of the Earl's Death. The Earl was resident in that very Country, and incapable of getting Children, yet he never heard of Lady *Altham*'s having a Child, who was to be the Heir of that noble Family.

My Lords, from the Evidence of *Mary Doyle*, and *Eleanor Murphy*, it is apparent that they could not possibly be at *Dunmain*, at the Time which they have laid for this supposed Birth, for they say, they did not know *Reid*, who was Butler at that Time, and to be sure he knows when he left the Family, and went into the Guards, they are such remarkable Circumstances of his Life; my Lords, they have contradicted each other in several Points, which Mr. Prime Serjeant has mentioned to your Lordships, of the Time that each lived there; they are further not to be believed in what they have swore, and that is this, they said *Joan Landy* was, and was not married at that Time, for *Doyle* swears *Joan Landy* was married to Mr. *Cormick*, and the Child was to be nursed at Mr. *Cormick*'s, and *Murphy* swears *Joan Landy* was not married, and more especially about the Great Eclipse, and that she was a Servant to Mrs. *Butler* at *Rosi* at that Time.

My Lords, the Evidence of *Thomas Brooks* the Surgeon, is as extraordinary as of any one Witness the Plaintiff has produced; he was about twenty Years of Age, he tells you, and lived at his Father's at a Farm-house, and he tells you he was sent for to bleed Lady *Altham*, when she was in Labour, that he came with a Servant to *Dunmain* House, but he does not know the time of the Year, only that there were Leaves on the Trees — and he tells you, that he let her Blood into a Pewter Plate. He does not know what Quantity of Blood he took from her; it was done by Guess: Now, Gentlemen of the Jury, can you believe that a Person of no Skill in his Profession, was sent for, and prefer'd before *Sutton*, who was a very eminent Surgeon, and lived but at *Rosi*: My Lords, the Depo-

Depositions of this Witness are so improbable that no Credit can be given to them.

My Lords, as to the Child, no Body ever saw it but *Green*, a Labourer, who worked in Lord *Altham*'s Gardens, and he forsooth saw the Child in his Lady's Arms, tho' none of the Domesticks of Lord *Altham* ever did.

My Lords, Mr. *Turner* swears he knows none of Lord *Altham*'s Family, and yet he says he was at *Dunmain* for two Months together; he saw Lady *Altham*, he says, and swears she had a Child, but, my Lords, he is quite wrong, for at the Time he mentions, which is in *August* 1715, both Lord and Lady *Altham* were at *Dublin*. My Lords, Mr. *Prime Serjeant* has spoke so fully to the Evidence of this Witness, that there remains no more for me to take Notice of.

My Lords, Alderman *Barnes*'s Testimony is quite inconsistent with itself, and how can it be otherwise, when, by Reason of his great Age, his Memory must have failed him. Mr. *Barnes* tells you a long Story of his seeing my Lord *Altham* at *Ross*, and of dining with my Lord at an Inn there, and that my Lord told him he had a Son by *Moll Sheffield*; he would have you believe that he did not understand my Lord's Meaning that this *Moll Sheffield* was Lady *Altham*, and from thence took Occasion to advise my Lord to keep to his own Wife, and discharge all other Women, which, how he came to know of such Women being retained by my Lord, is more than by this Conversation has appeared, which was only between their two selves, unless he had heard any Thing of *Joan Leady*'s Affair, which is not improbable. My Lords, I am inclined to think, that by the latter Part of his Evidence, he imagined his relating this Conversation between my Lord and him concerning this Child, was not serviceable enough to the Plaintiff, without he brings something from *Dunmain*. Accordingly, my Lords, he goes there the very next Day after this Conversation with my Lord at *Ross*; and being ask'd if he saw a Son there, he does not know but he might—But upon second Thoughts adds he is not certain—What a Partiality of speaking is this, he does not know but he might—To

be ſure he could tell whether he did or did not ſee a Child, but he is more inclined to be of that Side of the Queſtion he is brought for, than to ſpeak what he knows to be true. He tells you, that he dined the Day following with Lady *Altham*, yet he aſked no Queſtions about the Child, nor heard any Talk of it; he tells you that this Viſit was in *April* or *May* 1715. By their own Accounts it could not be in *April*, for then there had been no lying-in 'till the End of that Month, and in *May*, if my Lady had lain in, 'tis moſt likely ſhe would have ſtaid in her own Chamber, rather than come down Stairs, and be liable to catch Cold. And, my Lords, what gives me the moſt Reaſon to believe there was no Child when this Witneſs was there, and conſequently his whole Evidence inconſiſtent and not true, is, that one Mr. *Sutton* was there, this, my Lords, was *Mr. Sutton*, the Surgeon, who, we have been told by ſome of the Plaintiff's Witneſſes, was ſhewn the Door of my Lord's Houſe for making too free with the *French* Wine in the Cellar: If therefore this Witneſs ever was at *Dunmain*, and Mr. *Sutton* there, I am inclined to think it was before the Time of this pretended Birth, and I hope your Lordſhips will look upon the Evidence of this Witneſs in the Light it ought to be.

The next Witneſs, my Lords, I ſhall take Notice of, is *Chriſtopher Brown*, and in examining into his Evidence I ſhall beg leave to be a little particular, as I remember him not to be mentioned by Mr. Prime Serjeant.

And, my Lords, this *Brown* I obſerve to be a very artful Sort of a Witneſs, for he has got pretty perfect the principal Points as to Time and Place, but when we come to aſk him a Queſtion, that we do not much expect to be anſwered, he falls into a ſeeming Paſſion, and cunningly aſks us, if we would have him tell us what he don't know——and if we think he keeps an Almanack in his Head, the Queſtion that the firſt of thoſe rude and clowniſh Anſwers was made to was, to name the Servants that dined there.——He can tell you the Godfathers and the Godmother, whoſe Names, Gentlemen, you have ſo often heard, but he cannot tell you the Names

of

of his Companions that he dined and drank with, and that he saw so often when he came on Messages, and How do you's.—He positively tells you also, in Contradiction to several other of the Witnesses, I must refer you, my Lords and Gentlemen, to your Notes for their Names, that there was no Bonfires on the Night of the Christening, you do expect, I presume, he who was there should know, however not to be far behind hand with the others, which he might as well have agreed with, when his Hand was in he tells you he heard there was one the Night following, that is a Day after the Fair, when the Ceremony of the Christening was over, the Company gone to their respective Habitations, and the Servants employ'd to set the House in Order, which must have been a little out of Sorts with the Hurry of the Day before. My Lords, he tells you *Anthony Dwyer* was the Butler that Day, and *Mary Doyle* says *Charles Meagher* was. So contradictory are their own Witnesses in their Evidence that you can believe none of them.——We ask'd him my Lord, if he ever saw Lady *Altham*, he said he did once, but then she had the Child in her Arms, and was suckling——The most proper Time and Situation certainly he could have seen her in——Notwithstanding this Witness was so often at the Lord *Altham*'s House as he tells you, he does not know whether there was an Ascent to the Front Part of the House by Steps, and gives so lame an Account of the whole Affair, that I shall give just as much credit to his Evidence, as I do to the rest of the Story about the Lying In of Lady *Altham*, and doubt not but your Lordships and the Jury have the same Opinion.

My Lords, I would not take up your Lordship's Time to repeat the Evidence given by any of the Plaintiff's Witnesses, that Mr Prime Serjeant has spoke to, but I cannot help taking Notice of some Words, which, were they true, would have a bad Tendency against the Defendant, and I am satisfied none of the Jury will believe them, Mr Prime Serjeant has so well examined the Child, *Joan Laffan* was dry-nursing to be *Joan Lindy*'s,

but I muſt repeat and animadvert on this extraordinary Paſſage.

The Chriſtmas Eve after the Separation, *Joan Laſkin* tells you, came the Defendant, the Earl of *Anglesey*, he was then only Captain *Annesley*, and ſays to her, *Where is Jenny, where is my Brother's Child. How did his Mother behave at parting with him:* Obſerve Gentlemen, how conveniently ſhe makes that Gentleman ſpeak, that he ſhould then not only acknowledge him to be his Brother's Child, but that he wanted her to relate how his Mother behaved at parting with her Son.

And if you believe the familiar Words, he afterwards ſaid to her, ſhe ſays, the Captain made uſe of an extraordinary Oath, and ſaid, he wiſhed his Brother had kept none of the Breed, and that when he turned away the Mother, he ſhould have packed off the Child, and ſent them both to the Devil: Theſe Words, my Lords, are very unlikely to be ſaid by any Gentleman, to ſo inferior Perſon as a Nurſe, who it muſt be ſuppoſed would have ſome Affection and Tenderneſs for a Child that ſhe looked after; and therefore, my Lords, I believe that, like a great Part of her Evidence, to be nothing but a made up Story.

My Lords, and Gentlemen of the Jury, upon the Suppoſition that the Plaintiff is Son and Heir to the late Lord *Altham*, what a Brute I had almoſt ſaid muſt Lady *Altham* be, to put her Son, her only Son and Child, but five Weeks old, to nurſe to a Whore, a mean beggarly Woman, that lived in a bunting dirty Cottage, without a Door to it or Furniture in it, and to go backwards and forwards in her Coach to viſit this Woman the Nurſe of her Child, who ſhe had been informed had been a Whore to her Lord. My Lords, I cannot be brought to think a Lady of her diſtinguiſhed Birth and Education, could ever be reconciled to an Action ſo baſe and ſervile, could be of a Spirit ſo tame and ſubmiſſive, as to let a rival Dairy Wench have her Child to nurſe. My Lords, it is ſhocking to the Thought, to imagine theſe Things are as they have

have been sworn. It is plain that the Plaintiff was not Lady *Altham*'s Son. He might, we allow, be the Bastard Son of Lord *Altham*, by *Joan Landy*, and for this Reason Lady *Altham*, would neither suffer *Joan Landy* to stay in her Service at *Dunmain*, nor suffer young *Landy* the Plaintiff, though the Bastard of her Husband, to be in her House. And that the Plaintiff was not the Son of Lady *Altham*, is evident from her Ladyships Conduct and Behaviour, for Lady *Altham* was so angry (as she had very good Reason) at the Dishonour her Lord had done her, that she would not let *Joan Landy*, though she had been a Servant there, come near the House.

The next Thing I would observe is, the wise Choice the Forgers of this Birth have made in Relation to the Godfathers and Godmother; they have pitched upon Persons, who have all been long since dead, and the Witnesses themselves take care to tell you so, but the Forgery in my Opinion detects itself, Mr. *Anthony Colclough*, one of the Godfathers, was a Roman Catholick, and Papists by the Laws of this Kingdom, are disqualified, and cannot become Sureties for Protestant Children, when baptized. Mr. *Cliff*, the other pretended Godfather, was a Person in very poor and mean Circumstances. Had this Birth been no Forgery, had there been no Contrivance of artful Men to deprive the Defendant of his undoubted Right to the *Anglesey* Estate, and had the Plaintiff been the real Son of Lord *Altham*, the Godfathers undoubtedly would have been, the Right Honourable the Lord *Haversham*, his Grace the Duke of *Buckingham*, and the Godmother, her Grace the Dutchess of *Buckingham*, who were all then living, or the Earl of *Anglesey*, or People of Fortune and Distinction; and not inferior People, one disqualified by Religion, the other in indifferent Circumstances. Where not these I have named, more proper for Sponsors, than those the Friends of the Plaintiff have set up?

My Lords, the Behaviour of Mr. *Tighe* towards the Plaintiff, plainly shews, that he did not believe *Annesley* to

to be the legitimate Son of *Arthur* late Lord *Altham*; tho' he says the Boy was reputed to be such. For when Mr. *Tighe* took the Plaintiff into his Service, he cloathed him in a Livery, and he served Mr. *Tighe* in the Condition of a Footman. Lord *Altham* was then dead, and yet *Tighe* the Plaintiff's Master, never mentioned, or made any Stir about the Injuries his honest Servant suffer'd from the Deprivation of his Right by the Defendant, as is pretended. Certainly had Mr. *Tighe* credited the Plaintiff, had he believed, I mean, that his Footman was a legitimate Son of Lord *Altham*'s, common Humanity, and the least Spark of Generosity, would have induced a Gentleman of Mr. *Tighe*'s Character, to have used him in another Manner, than by making the Plaintiff his Footman. But as *Tighe*, my Lords, knew the Character of the late Lord *Altham*, and had heard that his Lordship had a bastard Son, he imagined the Plaintiff to be that Person as he really is, and so used him accordingly.

My Lords, it is a Jest for Mr. *Tighe* to say, that if the Boy had staid with him, he believes he should have taken proper Care of him: What was there to hinder him then, if he was the Person he claimed to be? His Mother was alive tho' his Father was dead, and the Matter might have easily, and without any Difficulty been proved; he says, he never spoke to the Earl of *Anglesey* in his Life, of Course then he was under no Constraint to be silent in that Affair, besides, it would have been easy for Mr. *Tighe* to have forwarded a Letter to Lady *Altham*, at that Time in *England*, by some of the Duke of *Buckingham*'s Family, this was easy enough to have been done as the Boy stay'd some Months with him. But it is plain from this Behaviour, he was looked upon at that time as no other than an illegitimate Son by Mr *Tighe*.

My Lords, having fully established the Plaintiff to be the Son of *Joan Landy*, and not of Lady *Altham*, I shall proceed to set aside the Evidence of those Witnesses, who have sworn Lady *Altham* was not at *Wexford*

ford at the Time of the Assises, when this pretended Birth is said to have happened.

And my Lords, as to Mr. *Colclough*'s Evidence, he was on the Grand Jury, and so engaged, that he did not take Notice of Lady *Altham*; he says, he was so solicitous for his Relation Mr. *Masterson*, that he would not sit by a Lady, and that if she attended the Trial, he must have seen her; by which, my Lords, I can only understand him to mean, that if she was concerned in the Trial or subpœna'd, he certainly should have taken notice of her; but as she was not, there was not so much Reason to expect it.

My Lords, *Higginson*'s Evidence is very doubtful and uncertain; he swore, he never spoke to Lady *Altham* before, yet she called to him, and called for Wine, he drank her Health and safe Delivery, and he swears particularly to *Easter-Monday*, yet the Plaintiff never thought of this Witness, nor was his Name given in to the Defendant's Attorney at the Beginning of the Trial, and here he comes in at the latter End thereof, without the Knowledge of the Defendant; but my Lords, the great Blessing of Trials by Juries is, that the Witnesses are produced in Court, so that the Jury may judge of the Persons, and their Appearances, and from thence the Probability of the Truth of their Evidence.

The next Witness is Mr. *Hussey*, he was brought to contradict the Testimony of Mrs. *Heath*, this Witness came to *Ireland*, was found out at *Kildare*, when no body knew he was in this Kingdom.

My Lords, it's strange, considering the Circumstances of this Case, and the Condition of the Family, that after Lord and Lady *Altham*'s Reconciliation, that if a Child was born, no Enquiry should ever be made by any of the Tenants, Relations, Servants, or any other Persons after him, and that none of the Neighbours who visited Lord *Altham*, as Colonel *Pallifer*, *Thomas Ross*, *Aaron Lambert*, Colonel *Loftus*, Mrs. *Giffard*, or Mr. *Elms*, should not hear or know any thing of the Child.

My

My Lords, *Arthur* late Lord *Altham*, being in great want of Money, for his Lordship was extravagant, proposed to his Brother the Earl of *Anglesey*, the selling of his Estate. As the Consent of his Brother was necessary in this Case; so this often caused great Contests, and falling out, Lord *Altham* was for mortgaging and selling his Estate to supply his Extravagancies; but the Defendant was careful in this Respect, tho' sometimes he would join with his Brother the Lord *Altham*, and sell Part of the *Altham* Estate. Now, my Lords, if Lord *Altham* had a Son, that Son would have been an Obstacle, and would have prevented both the Lord and his Brother, from selling any Part of the *Altham* Estate; nay, my Lords, what Person in their Senses would have been a Purchaser under such Circumstances.

My Lords, let us now see, what became of the *Altham* Estate, after the Death of *Arthur* late Lord *Altham*; nothing descended to the Defendant, but the meer Title for the *Altham* Estate devolved to the Earl of *Anglesey*. How very strange, my Lords and Gentlemen, is it, that tho' at the Death of Lord *Altham*, the Duke of *Buckingham*, his Dutchess, and Lord *Anglesey* were then all living, and the Plaintiff then in this City, that they should take no Care of him, have no Regard to his Education. Suppose it true, my Lords, that the Plaintiff at the Funeral of Lord *Altham*, did give out, that he was the Son and Heir of *Arthur* late Lord *Altham*, under the Circumstances that have been mentioned; would any Body then have credited it? No, for all that has hitherto appeared to the contrary, the Plaintiff was a Vagabond, and if the Defendant had any Hand in transporting him, it was to serve his Country, for if the Plaintiff was no Impostor, the Defendant by such a Contrivance, could not have reaped any Advantage, the Estate as I said before going to Lord *Anglesey*, who survived Lord *Altham*, and was not at all beloved in his Family. They would have been glad that Lord *Altham* had left a Son, if it had so happened, that Lord *Anglesey* might not have succeeded

to

to the *Altham* Estate. My Lords, this Thing is worthy the Consideration of the Jury, what Temptation could the Defendant have to contrive the transporting of the Plaintiff, when he could be no Gainer by it, for Lord *Anglesey* succeeded Lord *Altham* in the Estate. The whole Story is romantick, fictitious and ridiculous on the Part of the Plaintiff.

As this, my Lords, is the greatest, most weighty and considerable Cause, that ever came before a Jury, and, that probably ever will, what a Satisfaction must it be, to every one concerned (I am sure it appears very great to me) that this Cause now lies before a Jury of such eminent Persons, as at this Time fill and grace, as I may say, the Jury Box, Justice must be the Result of your Lordships and the worthy Jurors, and therefore I doubt not but a Verdict will be found for the Defendant.

Mr. *Stanniard*, the Recorder of *Dublin*, then spoke for the Defendant.

My Lords, and Gentlemen of the Jury, this Case has been so well and fully spoke to, both by Mr. Prime Serjeant, and Mr. Sollicitor General, that they have left very little for me to say, but the Attorney General being indispos'd, I hope your Lordships will indulge me to speak to the whole by way of Recapitulation, and as I think it to be a great Attack on the honest and lawful Possessions of a most noble Earl, if I were not retained in the Cause, I could not help endeavouring to shew forth the Baseness, Insolence, and Dishonesty of the Attempt.

My Lords, the single Point before the Court is this, whether Lady *Altham* had a Son: If she had a Son, then, whether the Lessor of the Plaintiff, Mr. *Annesley* is that Person.

My Lords, the first Instance of their Insolence, is endeavouring to prove Lady *Altham* had a Miscarriage, when no such Thing ever happened to her, after her Reconciliation with Lord *Altham*, the Ceremony of which was performed at Captain *Briscoe's*, in *Dublin*. As there of Course must be an Acquaintance and Intimacy, between Lady *Altham*, and the Family of Mr.

Briscoe's, which I think, were a Wife and five Daughters, one of them *Henrietta Coles*, was pitched upon to be the likeliest to give some Account of a Miscarriage, because with her Mamma, she had the Honour of paying a Visit to Lord and Lady *Altham* at *Dunmain*. I will grant, my Lords, that not any one Act of Kindness was shewn to Lady *Altham* by Lord *Altham*, from the Time of their Reconciliation while they lived together, or has yet been proved at this Trial, neither has any Instance of Barbarity been discovered, notwithstanding the Affair of the Saucers has been insinuated, to be thrown in an ill natured Manner, at or near my Lady, so as to occasion a Miscarriage. My Lords, what this Witness has deposed on this Affair is not probable, for after my Lady *Altham's* leaving of *Ross*, and during her Continuance and Residence in *Dublin*, if any such Affair had happened, it would occasion a Subject to have been talked of between Lady *Altham*, and Mrs. *Coles*, and of Course mention would have been made of a Son, which she was afterwards more fortunate to bring forth; but by neither of the Miss *Briscoe's* giving any Account of the Family, after this one Circumstance, I cannot give Credit to the Relation, and believe your Lordships and the Jury must be of the same Opinion. She was but a Girl of twelve or thirteen Years of Age, and Mrs. *Heath*, who lived with my Lady, and was her Woman, says, she never was with Child or did miscarry.

My Lords, the Miscarriage in *Dublin* is as false a Story as the other, there is only one Witness to this Miscarriage, and that is, *Catherine Mac Cormick*: Mrs. *Heath* is positive to the contrary, and therefore it must be looked on as a Story of her own forging, upon this Opportunity. Mrs. *Blake* visited Lady *Altham*, who was a Relation to the Family, yet her Ladyship never told Mrs. *Blake* she had miscarried.

My Lords, *Redmonds*, *Doyle*, and *Murphy*, who are the principal Instruments to vouch the Affair of the Birth, are very mean People, of the lowest Condition and Places in the Family, and who, by large Proposals and Promises, have come into the Affair, and been well

well tutor'd: The Contradictions, Falsities and Absurdities of these Witnesses, have been so fully explained and laid open to you by Mr. Prime Serjeant, that I need add nothing to his Observations.

Mrs. *Scott* in her Evidence contradicts *Catherine Mac Cormick*, for *Scott* told her, she never knew Lady *Altham* had a Child; but, my Lords, the Gentlemen for the Plaintiff took these Steps, in order to shew that there was a Miscarriage, and if the Reasons above are not well grounded, but untrue, all the rest of the Plaintiff's Proofs must fall to the Ground.

My Lords, as to Mrs. *Shields*, the Midwife, surely, it is not to be believed or conceived, that if Lady *Altham* was in such a Condition, that Care would not have been taken to have the Midwife in the House, and not to have sent to *Ross* for her at the Moment of the Lady's Travail; there was no Nurse provided, nor any body in the House able to assist Lady *Altham*, but Mrs. *Heath*; that none were at the Birth, but Mrs. *Butler*, the Chamber-maid, and Dairy maid; that the Midwife should be dropped at the Gate near the Yard, and not know upon what Occasion or to whom she was sent for. These are surprizing and incredible Circumstances!

Brooke's Testimony, my Lords, is astonishing; he swears, he has been a Surgeon twenty Years and upwards, but he bled Lady *Altham* near thirty Years ago; he was then a Stranger both to the Profession and to the Family at *Dunmain*, for he does not know what Quantity of Blood he took away from the Lady, neither had he Directions for bleeding her, neither did he know any of the Family, except *Redmonds*; he was not paid for his Trouble, he says, neither did he book it, so that from such a mixed and contradictory Account the Jury can give no Credit to any Thing he has said.

Turner, my Lords, is a very bad Witness, for he places the great Eclipse nine Months after it had happened, and from his frequent and manifest faltring in his Evidence, the Jury can pay no Regard to him.

My Lords, as to *Joan Laffan*, who dry-nurſed the Plaintiff, ſhe has been ſo long under the Tuition of *Henderſon*, and Mr. *Mac Kircher*, that ſhe will by no means allow him to be the Child of *Joan Landy*; ſhe tells you a long Story, that ſhe was employed to look after Maſter *Anneſley*, when he was brought home from the wet-nurſe, that he was a Year and half in her Care, and that my Lady uſed to take him to her Bed in a Morning. That afterwards the Child was taken from her, and ſent to *Kinna*, but that ſhe did not go with the Child, but remained at *Dunmain*; my Lords, Mr. *Lambert*, and Mr. *Palliſer*, tell you, they lived in the Houſe when Lord and Lady *Altham* lived there, that there was no Child in the Houſe, and that the Buſineſs of this *Laffan*, was to waſh and ſcour the Rooms. She then tells you, that *Thomas Palliſer* was the Occaſion of my Lord and Lady's Separation, (when the Child was about three Years old) and that ſhe was preſent when Mr. *Palliſer*'s Ear was cut off, and as a very extraordinary Circumſtance, which to be ſure ſhe remembers the whole Tranſaction by, the Child pointed to the Blood. She ſays, ſhe ſaw my Lady at the Door, with the Child in her Arms, fondly deſiring to take him with her (this Child, Gentlemen, who run about *Dublin* Streets afterwards as a Blackguard, forſaken by every Body, ſhe took no Notice of,) ſhe tells you, my Lord *Altham* came out of the Houſe in a great Rage, ran up to her Lady, and ſnatched the Child from her, though my Lady begged ſhe might have him; the ſmalleſt Particulars of this Story, are ſo extremely well related, that 'twas with Difficulty my Lord conſented ſhe ſhould give the Child a parting Kiſs. My Lords, young Mr. *Palliſer* was in the Houſe at this time, and I am ſorry that in accounting for that Gentleman's ill Uſage, I muſt ſay ſomething of Lord *Altham*, which was not conſiſtent with the Honour of a Nobleman: My Lords, young Mr. *Palliſer* was the Son of a Gentleman, who had a good Eſtate in the Neighbourhood, it being a cuſtomary Thing for ſuch young Gentlemen to live in Noble-

men's

mens Families, that they might ſee a great deal of Company, and know the World. This young Gentleman uſed to ride out, and hunt with my Lord, and my Lord uſed to ſupply him with Horſes: On coming home from *Burtown* one Night, my Lord told him his Intention of parting with his Wife, becauſe Lord *Angleſey* would not be in Friendſhip with him, the young Man very diſcreetly ſaid, that he would not part with his Wife to pleaſe any Body. *Laffan* tells you, that Mr. *Palliſer* uſed to put Jallap into the Servants Drink, and tell Lies of them, ſo that he was not regarded by them, but was forced to waſh his own Stockings. Mr. *Palliſer* was very young, and might out of a Joke play Boys Tricks ſometimes with the Servants, but it was barbarous in making a Pretence to get rid of his Wife to uſe the young Gentleman ſo very ill. She ſays, that my Lord laid a Plot againſt him, with ſome of the Servants, and made them take an Oath of Secrecy; was not this a mean Way of proceeding? On the *Sunday* Morning, the Day of the Separation, *Laffan* tells you a Fire was order'd to be made in my Lady's Room, and my Lord pretended he was to dine out that Day. *Palliſer* and my Lord drank a Bottle of mulled Wine for Breakfaſt, and when my Lord was gone, Mr. *Palliſer*, as he uſually did, by my Lord's Permiſſion, went to Breakfaſt again in my Lady's Room, and my Lord by a Signal from one in the Plot, is brought back, and this is a Reaſon both for abuſing Mr. *Palliſer*, and parting with his Lady. Mr. *Palliſer*, like a Man of Courage, and the Son of a Colonel, ſends my Lord a Challenge, which, had he been injured as he pretended, he would have accepted; ſo that this Affair of *Laffan*'s, with reſpect to the Plaintiff, is not the firſt diſhoneſt Plot ſhe has been engaged in. Mr. *Palliſer* declares he never had an Intention to try Lady *Altham*'s Virtue, and 'tis not likely he would have attempted ſuch a Thing, when her Woman was going backwards and forwards about my Lady's Chamber, the Doors were not faſtened, and there was no Appearance of ſuch a Thing; ſuppoſe he had

had my Lord *Altham*'s Cap on, this is far from being a Reason for concluding he had been, or was going to do what he ought not, for such a Thing might be put on very innocently, and without any evil Intention; and I think, my Lords, there ought to have been greater Proof of the Crime, than there was to conclude Mr. *Pallifer*, the Cause of this Separation.

My Lords, *Doyle* and *Murphy* contradict one another as to the Christening. *Doyle* says, it was in the yellow Room, and *Murphy* says it was below Stairs in the great Parlour.

My Lords, the Testimony of *Oneil* is a Scene of Iniquity through the whole; she tells you, that she was a Servant to Lord *Altham*, both at *Carrickduff* and *Dublin*, when Lord *Altham* lived at those Places with Miss *Gregory*; and that after she had left that Service, the Boy came to her in a bad Condition, to desire she would apply for some Relief for him to my Lord: My Lord puts her off by telling her he already paid for his Board at Mrs. *Cooper*'s, in *Ship Street*, and that Mrs. *Cooper* said, he was such a naughty Boy, that he would do nothing for him till he was better; but as she obtains no Relief for him, from my Lord, (which if he was his own, his only, and his lawful Son is most surprizing,) she says, my Lady *Altham* sent for her after her Return, some time afterwards from the Country, and asked her how Miss *Gregory* behaved to the Child at *Carrickduff*; she tells you, Miss *Gregory* behaved to the Child as a Relation at *Carrickduff*, but she did not know how she behaved at *Dublin*. This Conversation, my Lords, is after the Boy's applying to this Witness to speak to Lord *Altham*, and yet not one Circumstance of that Transaction is mentioned here to my Lady; if it had, and he had been her Son, would she not have sent for him, and taken Care of him, she could not suffer any more, as she was then separated from Lord *Altham*: She never mentioned him at Alderman *King*'s; would she not have taken Care of the Heir of such a Family, and been Guardian to him, when it would have been greatly

for

for her Interest, after the Death of his Father. Besides, my Lords, the Duchess of *Buckingham* was the Widow of Earl *James*, would not she have taken Care of such a Son? And from all these Circumstances it is contrary to Reason to imagine, that the Plaintiff should be the real and legitimate Son of Lord and Lady *Altham*, and that no Regard, no Care of his Education should be had towards him.

My Lords, the whole Story is quite improbable, they have brought some Witnesses of good Capacities, who swear to particular Facts and Times, and tell their Tale very well, but even these contradict one another; there are several others, who never knew any Thing of the Matter, that come and swear what they are directed. And there are another Sort, I believe, of well-meaning People, who were impos'd upon by my Lord's own Behaviour, at *Kinna* and *Carrickduff*, when my Lord was pleased to take Notice of the Youth.

As to the Transportation, my Lords, it is done with a manifest Design to throw Dirt on the Defendant; and, my Lords, they have called a great many Witnesses to this Particular.

The first I shall take Notice of, is Mr. *Shelcross Ash*, he tells you, that he was concerned as an Attorney for the Defendant when he was only Lord *Altham*.

That one *Cavenagh* or *Wilkinson*, his Servants, having been sent to Mr. *Hawkins*, King at Arms, to desire him to enrol the Defendant as Baron of *Altham*, in the Room of his Brother, the late Lord *Altham*, came back to my Lord, while Mr. *Ash* was present, with this Answer, that Mr. *Hawkins* could not enrol him, for that there was some Reason to think, that the late Lord *Altham* had left a Son, because a Boy had made a great Noise at his Funeral in *Christ-Church*, crying and telling every Body that he was the Son of the late Lord *Altham*.

Was not this making a Proclamation? This was the Time to have tried his Right, if he were brought up in the Family, and made to believe he was Lord *Altham*'s Son; now was the Time to undeceive him.—Where were all my Lord's Friends, Relations, and Acquaint-

ance?

ance?—Was there no Servant, no one Perſon at the Funeral to take the Boy Home with them? Was not Lady *Altham* alive? How came the Defendant to take his Seat in the Houſe when he had no Right thereto? Was there no Companion or old Acquaintance among that Aſſembly who knew Lord *Altham*, but would pay ſo little a Regard to his Memory as to ſee Right done to his Son and Heir, had he left one?—My Lords, Mr. *Aſh* acknowledges he never knew of any other Heir to Lord *Altham* but the Defendant.

My Lords, *Purcel*, who would ſeem to be the Guardian of the Boy, tells you, that upon *Farrel*'s Recommendation he took the Boy to his Houſe, that he introduced him to his Wife, and told her, he had brought her a Preſent, and deſired her to take Care of the Child, who might one Day live to make her amends: That his Wife aſked who he was, and *Purcel* told her. So that it was with a View of Intereſt that he had Admiſſion to *Purcel*; and yet *Farrel*, who ſaid he knew the Boy from his Infancy, was glad to be rid of him, notwithſtanding the mighty Intereſt *Purcel* expected to make of him. He ſays, that the Boy was ill of the Small Pox at his Houſe, and that proper Care was taken of him. But had he applied to Lord *Altham*, as he ought to have done, had he been his Son, he would certainly have had more Care taken of him than *Purcel* was capable of doing. He then, in order to caſt an Odium on the Defendant, tells a Story that a Gentleman, who was called *Richard Anneſley*, came with a Gun in his Hand, ſat down and called for a Pot of Beer, imagining he ſold Liquors, that he aſked for the Boy, ſaw him, and called him *Jemmy*, and told *Purcel* he was his Brother's Son; that after the Funeral, Defendant ſent for the Boy to one *Jones*'s, a Butcher and Neighbour of this *Purcel*'s, but that *Purcel*'s Wife did not care he ſhould go, becauſe ſhe was afraid his Uncle wanted to uſe him ill. How ſhe came to imagine ſo, has not yet appear'd to the Court. However *Purcel* ſays, he took a Cudgel in his Hand, and went to the ſaid *Jones*'s, where he ſaw the Defendant, a Conſtable, and three or four ill-

ill-looking Fellows; that the Defendant expreſſed much Anger at being inſulted on the Boy's Account. This was ſix or ſeven Weeks after his firſt going to *Purcel*'s.—He tells you that he ſtaid there eleven Months in all, and during that Time never applied to any Body about the Boy, that he did not care to interfere in the Matter, as long as Might had overcome Right, which, my Lords, is far from being the Caſe in this Country; for had the Plaintiff had any Right to it, there would have been People enough to have ſeen him had his Right.—My Lords, *Purcel* adds, that when he went with the Boy to *Jones*'s, the Boy ſaid to him, Dear Sir, don't let them take me away, that's Uncle *Dick*—They will deſtroy me. When he ſaw the Boy before, they parted friendly, how the Boy came to know he was to be deſtroyed, is more than I can diſcover.

My Lords, as to the Plaintiff's being put on Board the Ship, Mr. *Cromie* ſwears, that *Skelleron* took down the Names of the ſeveral Perſons that went abroad that Time in the Ship belonging to Mr. *Stephenſon*, that each Perſon were called by their Names, and did anſwer and paſs by him, and *Anneſley*, being aboard, expreſſed his Name right, but the Maſter of the Ship might ſpell his Name wrong at the *Tholſel*; and, my Lords, if the Leſſor of the Plaintiff, Mr. *Anneſley*, was put on Board after the forcible Manner that has been mentioned by the Witneſſes examined to that Matter, would not Mr. *Anneſley* have complained then of his being taken away by Force, yet he was ſeen publickly aboard and never did complain.

My Lords, the Application of Mr. *Kircher* to *Rolph*, as knowing he was one of the Family, plainly ſhews that no Steps have been omitted by the Perſons concerned for the Leſſor of the Plaintiff, to ſeek out that Evidence in which they have evidently failed. My Lords, what elſe was the Tender of a Lieutenancy to Mr. *Rolph*, when Mr. *Mac Kircher* went with other Gentlemen to dine with him at *Marybone*. Therefore I muſt ſubmit to the Court, and to the Conſideration of the Jury,

whether the Lessor of the Plaintiff must not positively prove himself the real Son of *Arthur* late Lord *Altham*.

In answer to the Evidence produced by the Plaintiff, I shall mention to your Lordships the principal Points of what the Witnesses for the Defendant have deposed.

My Lords, *Nicholas Loftus*, Esq; lived at *Loftus-Hall*, above 35 Years, which is only 8 Miles from *Dunmain*, and he never heard of any Rejoicings that were made there for the Birth of a Child. He tells you also, that Mr. Alderman *Barnes* of *Kilkenny* is very much impaired in his Health, and consequently you can pay no Regard to his Evidence.

My Lords, Mr. *Pallifer*, the Elder, knew Lord *Altham* and his Lady, when they lived at *Dunmain*, and visited them at least once a Fortnight, and never saw Lady *Altham* was with Child, or heard she was confined to her Chamber on any Indisposition or Miscarriage.

My Lords, Mr. *Wall*, who is now a Member of Parliament, and in those Days was concerned as an Attorney for *Arthur* late Lord *Altham*, tells you, that Lord *Altham* told him he had a Son which was illegitimate, and that his Lordship often wished he had a legitimate one. This Information was about the Year 1725, he says, that in the Year 1727 or 1728, he saw a Boy at *Ross* that was said to be Lord *Altham*'s Son, that he blamed his Lordship for not taking more Care of the Boy, that his Lordship made Answer, that he was doubtful whether that Child was his, for if he thought he was, he would take more Care of him, that he had that Child by *Joan Landy*, who had to do with several others. My Lords, this is very probably the Case, this Gentleman was my Lord's Attorney, and my Lord might open his Mind and Affairs to him.

My Lords, the Testimony of Mr. *Elms* is very particular, he lived about a Mile from *Dunmain*, and had frequent Opportunities to see Lord and Lady *Altham*; sometimes he went there as a Neighbour, and sometimes on Business. My Lords, he knew all the Servants, *Anthony Dwyer*, *Martin Neise*, *Rolph*, *Cavenagh*, Mrs. *Heath*, *Laffan* and *Landy*.—The last was with Child when Lady *Altham*

Altham came there, and left the Service shortly after, Mr. *Elms* tells you she was brought to Bed at her Father's House on the Lands of *Dunmain*, and that after the Seperation of Lord and Lady *Altham*, the Child was brought into *Dunmain* House, being then, as near as he could guess, about three Years old.

Mrs. *Anne Giffard* was very well acquainted with Lord and Lady *Altham*, and was not a Month together from visiting Lady *Altham* at *Dunmain*, when her Ladyship was there, so far from hearing my Lady say she was with Child, that Lady *Altham*, seeing this Gentlewoman big with Child, said to her one Day, What! Do you complain? I wish I was in the same Condition; that the Child she was then big of is since born, and dead, and would be 30 Years of Age if he was now alive.—My Lords, this Lady accompanied Lady *Altham* to the Assizes at *Wexford*, to see some Men tried there for enlisting Men for the Pretender: This was so remarkable that a great many People took Notice of it, and the very Time that Lady *Altham* was there, which is sworn to by several very credible Witnesses, the Plaintiff has fixed for the Time of his Birth. She declares further, that Lady *Altham* had not the least Appearance of being with Child at that Time.—This Witness, and the others, being of so great Fortune, Reputation and Credit, demands Belief that the Plaintiff was not the Son of Lady *Altham*, as is pretended. My Lords, Mr. *John Ker*, who was Clerk to the Lord Chief Justice *Forster*, particularly remembers the *Wexford* Assizes in 1715, when the Pretender's Men were tried.—It is sufficiently proved that Lady *Altham* was there, tho' Mr. *Coldlough* did not see them, for *Higginson*'s Testimony proves that he paid 20 *l.* to Lord *Altham* at *Wexford* that very Time, and by Consequence the Lady *Altham* must be there, and could not be brought to Bed the *May* following; for would Lord *Altham* have let his Lady go to such a Place in that Condition; besides Lady *Altham* was in the City of *Dublin* the 28th of *May*, being the Birth-Day of King *George* the First.

My Lords, *Anthony Dwyer* swears that he lived at

Dunmain with Lord *Altham*, and was Servant to him for five or six Years, and was in Lord *Altham*'s Service, particularly at the Time of the Separation, and never heard that Lady *Altham* was with Child, or had a Child, that *Joan Laffan* was in the Service at the same Time that he was, and that she was a Chamber-Maid. This is the Deposition of Lord *Altham*'s Gentleman.

My Lords, the next Evidence I shall expatiate upon of the Defendant's Witnesses, is Mrs. *Heath*; and, my Lords, the Objection of the Plaintiff's Counsel, against her being examined in this Cause, sufficiently shews how fearful they were she should be examined; their Efforts by Mr. *Mac Kircher* to bring her over into their Measures, being defeated by her Honour and Adherence to Truth; 'tis no wonder they should object to her giving Evidence; my Lords, her Evidence is so large and extensive, that I could gladly repeat every Word of it, but I will confine myself to the principal Fact: She protests solemnly Lady *Altham* never had a Child, or was with Child during the whole Time she lived with her, which was near Twenty Years; she says, that *Rolph*, the Butler, was at *Dunmain*, when my Lady and she went down there, tho' the Witnesses for the Plaintiff swears he was gone away.—She declares she was at *Wexford* Assizes with Lord and Lady *Altham*, that her Ladyship was in Court, and expressed her particular Notice of a Trial to her, by saying, how well Mr. *Masterson* pleaded his own Cause; the Assizes of *Wexford*, my Lords, have been proved to be at the Time of this pretended Birth. From *Wexford* they went to *Dublin*, where the Rejoicings on the King's Birth-Day is a very particular Circumstance to remember the Time by. She declares that no Child was present, or took Leave of my Lady at the Separation, nor after her Removal to *Ross* were any Shoes made by Lady *Altham*'s Order for any Child.—My Lords, the Account Mrs. *Heath* gives of Lady *Altham*'s taking the Death of Lord *Altham* is very natural, and I hope you will indulge me to repeat it.—She says, Miss *Mac Mullen* of *Dublin* wrote

wrote a Letter to her, dated the 18th of *November* 1727, giving an Account of the Death of his Lordſhip, that as ſoon as ſhe opened the Letter, ſhe went up to Lady *Altham*, told her the Contents of the ſaid Letter, and gave the Letter to her Ladyſhip, that her Ladyſhip read it, and made no Reflection thereon, nor ſaid any Thing at all on that Account, nor had ſhe any other Account of his Death but that Letter, that her Ladyſhip did not go in Mourning, being already in Mourning for the King. She further ſaid, that Lady *Altham* told her both before and after the Death of his Lordſhip, that ſhe was to have no Jointure, as not having either Son or Daughter, and on that Account the Eſtate going to the Earl of *Angleſey*, ſhe was to have nothing.—This is very plain, and a great Confirmation of Lord *Altham*'s Behaviour towards the Boy, that he was not the lawful Son of Lord *Altham*.

My Lords, Mrs. *Heath* adds, that Lady *Altham* enjoyed her Underſtanding and her Senſes, and was able to manage all her own Affairs to the Day before ſhe died——which was two Years after Lord *Altham* died. In that Time, had ſhe a Son living, would ſhe not of Courſe have deſired ſome Friend or Acquaintance to enquire for him? If ſhe heard he was ſent abroad, was there not an eaſy Method, by applying to the Government, to have him ſent back? My Lords, it is a moſt daring inſolent Attempt, and the Authors of it deſerve to be puniſhed.

My Lords, the next Witneſs I ſhall ſpeak to on the Defendant's Side, is Alderman *Robert King*, who ſays Lady *Altham* lodged and dieted with him for thirteen or fourteen Months, that ſhe frequently talked to him of her Family and Misfortunes, and never once mentioned her having a Child or a Son, which ſhe moſt certainly would have done, when ſhe was mentioning other tender Subjects.

Martin Knieſt, my Lords, was Smith and Farrier to Lord *Altham*, and lived in his Service before Lady *Altham* came to *Dunmain*, and after the Separation; he ſwears that *Juggy Landy*'s Child was brought into the Houſe

Houſe ſix Weeks after the Separation, and that there was no Child in the Houſe at the Time of my Lady's leaving *Dunmain*; he ſaw this very Boy afterwards at *Kinna* and *Dublin*.—He was preſent when Lord *Altham* was going to execute his Scheme on his Lady, having juſt gone out on a Pretence of dining Abroad, and immediately returning.—He attended her Ladyſhip that Day to *Roſs*, whither ſhe went in a four Wheel Chair, and declares there was no Child preſent, and that *Black Kate*, and not *Joan Laffan*, took Care of *Landy*'s Child after he was brought into my Lord's Houſe.

My Lords, Mr. *Downs*, who lived in the Pariſh of *Tenturn*, has been a regiſter'd Prieſt upwards of forty Years, gives you a particular Account of the Plaintiff.—He ſays, it was the common Report of the Country that Lady *Altham* never had a Child, and that ſhe could not have a Child at *Dunmain* without his knowing it, becauſe he had an Account of all the Children born in the Pariſh.—That Lord *Altham* would frequently call on this Gentleman, and drink with him, and there was ſome Intimacy between them, and Lord *Altham* ſaid to him, he wiſhed he had a Son.

My Lords, Mr. *Downs* has informed you, that he made a Chriſtian of this very Boy of *Landy*'s, and that he called him *James*.—He declares *Landy* was unmarried when ſhe had the Child, and that the next Time of his ſeeing the Child, after the Chriſtening, was at Lord *Altham*'s, in the Parlour, that Lord *Altham* ſaid to the Boy, You Son of a Whore, why don't you get up and make a Bow to him that made you a Chriſtian.—This was very much like Lord *Altham*'s Way of Speaking, and ſo very remarkable, that I don't doubt but your Lordſhips and the Jury will give Credit to one of Mr. *Downs*'s Profeſſion and Years.

My Lords, the Teſtimony of *Patrick Furlong* is not to be omitted, he was employed by Lord *Altham* as his Fowler, and he alſo kept a little School; among his Scholars was a Child of *Juggy Landy*'s, he ſays that Lord *Altham* called on him, and forbid him to let *Landy* ſee the Boy, for if he did, he ſhould be angry with him.

Though

Though my Lord was inclined to take care of the Child, he might not chuſe to remember the Thoughts of his Amour with his Mother, and accordingly ordered her neither to have Acceſs to her Son, nor come near his Houſe.

My Lords, the Attempt of Mr. *Mac Kircher* on Mr. *Herd* at *Enniſcorthy* is very extraordinary; the Witneſs was introduced by one *Whelan* of the *Bear Inn* (who told him for ſpeaking two Words his Fortune ſhould be made) Mr. *Anneſley* ſalutes him, and Mr. *Mac Kircher* aſks Mr. *Herd* whoſe Son Mr. *Anneſley* was, and if he was not like Lady *Altham*.—At the ſame time calls for Pen and Ink, and begins to write. Mr. *Herd* bluntly tells them, he was *Joan Landy*'s Son; upon which Mr. *Mac Kircher* tore the Paper, and put it in the Fire.

My Lords, Mr. *Knapper*, who lived at *Roſs*, declared he never heard Lady *Altham* had a Child, and believes it impoſſible ſhe ſhould have a Child without his knowing it; that he was well acquainted with her Ladyſhip when ſhe lived at *Dunmain*; and it was the Reputation of the Country, ſhe never had a Child there, or in *Ireland*. Mr. *Knapper*, my Lords, viſited Lord *Altham*, with other Gentlemen, and never heard any Child made Mention of.—He ſays, that he ſaw Lord *Angleſey* after the Death of Lord *Altham*, and that Lord *Angleſey* made no Mention of a Son of Lord *Altham*'s; that Lord *Angleſey* enjoyed Lord *Altham*'s Eſtate for Ten Years; and Mr. *Knapper* had a Letter of Attorney from Lord *Angleſey* to collect Rents of the Tenants.—That no Perſon among them framed a Notion of a Son of Lord *Altham*'s, or made any Objection on Account thereof, the Town of *Roſs* being almoſt entirely the *Altham* Eſtate; and if Lord *Altham* had a Son, there would have been Whiſpers, that muſt have run from one to the other; there certainly would have been Rejoicings at *Roſs*, and it would have been talked of by the whole Country, not only all over *Ireland*, but *England* likewiſe.

My Lords, Mr. *Breban*, who is an Attorney of this Court, declares, that he ſaw the Leſſor of the Plaintiff at *Roſs*; that he was called *Jemmy Altham*; and that, as he was reputed Lord *Altham*'s natural Son, he gave him Bread,

and

and let him lie in his Father's Stable, that he might not lie in the Street; that he saw him afterwards at the House of one *Barrett*, an Ale-Seller; that the Boy used to run of Errands; and that he heard he behaved ill.——Had he been what he pretended, would not Mrs. *Butler* of *Ross*, or some of her Family, took Notice of the Boy out of Regard to Lady *Altham*, who had boarded with them.

My Lords, Mrs. *Mac Mullen* confirms the Account she sent Mrs. *Heath* of my Lord *Altham*'s Death and Funeral: She declares Lady *Altham* lodged with her at her House in *Taste*'s *Square* for about eight or nine Weeks; that she discoursed very familiarly with her, and heard her often wish she had a Child, that there might have been an Heir to my Lord's Estate.——She says that my Lady, a little before her Departure, desired her to send her an Account of my Lord's Death the first Opportunity, which, like a faithful *Irish* Woman, she accordingly did. She says she saw the Funeral of Lord *Altham*, and that a Boy was there making an Uproar, who said Lord *Altham* was his Father, and *Joan Landy* his Mother.

Mr. *Darenzy* says, that he knew the late Lord *Altham* at *Carrickduff*, that he saw a Boy with my Lord, who was cloathed in Red, at a Hurling, and that the general Report was, that the Boy was a Bastard, and that he never heard a Word of my Lord's having a Child.

My Lords, the Evidence of Mr. *Medlicot* for the Defendant is very particular. He says, that he used to ride a Hunting with my Lord, and frequently dined with him at *Kinna*, and at Mr. *John Annesley*'s at *Ballybac*: He says, on a Conversation once with my Lord about the *Anglesey* Estate, my Lord said, he had Reason to expect he should be Lord *Anglesey*; and added, When I die, as I have no Son of my own, I don't care what comes of the Estate, it may go to the D———l.

Colonel *Becket*, my Lords, declares, that he knew Lord *Altham* twenty Years ago, when my Lord lodged at Mr. *Vice*'s in *Essex-Street*, and afterwards at *Inchicore*; that he was very intimate with my Lord, who used to discourse with him about the Animosities that subsisted between

between him and his Brother, the Defendant; that my Lord would ſay, he wiſhed his natural Son had been a legitimate Son, to cut the Scoundrel his Brother out of the *Angleſey* Eſtate; that the Boy was preſent, and one *Cavenagh*, when my Lord ſpoke theſe Words, and though there was a Bottle of Wine and Bowl of Punch on the Table, it was before Supper-time.

My Lords, Mr. *Harman* carries this Matter further, and, I think, out of all Doubt.—He ſays he knew my Lord in 1714 or 1715; that he heard him often lament he had no Child by his Wife; that my Lord often ſpoke to him of a Baſtard Child, which my Lord ſaid he could not tell whether it was his own Child, his Brother's, or his Footman's; that my Lord would talk ſo much on this Subject to that Gentleman, that he deſired him not to peſter him about his Baſtard Son, but go to his Wife; that my Lord made Anſwer, ſhe could not bear one.—This Evidence, my Lord, comes from Gentlemen who are out of the Reach of Bribes. My Lord *Altham* was ſo inclinable to have a Son, that ſometimes, and before ſome Company, he called this Boy ſo; but with his moſt intimate and Bottle Friends, he let them into the whole Secret.

As to *Higginſon*'s Teſtimony, my Lords, this Witneſs only received the Rents of the *Nany Water* Eſtate for Lord *Altham*, and not thoſe of the *Raſi* Eſtate. For he was Receiver to the Earl of *Angleſey*, and only received by Stealth for Lord *Altham*. And is it to be believed or preſumed, that Lady *Altham* would come down two Pair of Stairs, and with a white Apron and white Handkerchief on call for Wine, at which Time he ſwears he ſaw her Ladyſhip big with Child? This has all the Marks of Forgery and Impoſture.

My Lords, *Cavenagh*'s Teſtimony is poſitive; and tho' he would not take on himſelf to ſwear to any poſitive Time, yet it ſhews what he ſwore to be true, and ought to have Weight with the Jury in this Caſe.

On the whole, my Lords, the Leſſor of the Plaintiff, Mr. *Annesley*, ought to prove himſelf to be the legitimate Son and Heir of *Arthur* late Lord *Altham*, without any Doubt whatſoever; and until he does that, I hope the

men of the Jury will keep the Poſſeſſion where it is, and more eſpecially the Remainder Men who are now nearly concerned, ſince the Defendant, the Earl of *Angleſey*, has parted with his Wife.—There is no Proſpect of having any Children to inherit the Eſtate, therefore I hope the Gentlemen of the Jury will give a Verdict for the Defendant.

Here the Jury, by Conſent of their Lordſhips, were allowed ſome Refreſhment in Court, before the Council of the Leſſor of the Plaintiff began to ſpeak to the Evidence on their Side the Queſtion, which took up about half an Hour.

Court: Gentlemen of Council for the Leſſor of the Plaintiff, the Defendant's Council having ſpoke to the Evidence on both Sides, the Court will hear you for the Plaintiff.

Mr. *Serjeant Marſhall*, of Council for the Plaintiff, ſpoke as follows.

My Lords, and you Gentlemen of the Jury, I am in this Caſe of Council with the Plaintiff, Mr. *James Annesley*, and my Lords, I believe no Age or Country can parallel the Scene of Iniquity and Barbarity, which has for a Courſe of many Years, been carried on, and ſhewn towards the Plaintiff, he was ill treated, kidnapp'd, tranſported to *Philadelphia*, where he was a Slave for thirteen or fourteen Years, ſuffering unſpeakable Hardſhips, and after that the time of his Slavery and Bondage was expired, and he was come to *England*, to endeavour to obtain his Right, Title, and Eſtate, by an unhappy Accident he was impeded, on which the Defendant by his Agents and private Methods contrived to indict him for Murder, at the Seſſions of *Oyer* and *Terminer*, held at *Juſtice-Hall* in the *Old-Bailey*, held for the Goal Delivery of the City of *London*, and County of *Middleſex*. Here, my Lords, was the Plaintiff impriſon'd for a conſiderable Time, was brought upon his Trial, and acquitted. And, my Lords, if we were to enquire into the Characters of the principal Actors in this wicked Affair, and but obſerve their Behaviour

viour in Life, we should not in the least wonder at it.

My Lords, the Gentlemen on the other Side at their first setting out, proposed to the Court and Jury, that they would prove that the Plaintiff was willing to go abroad, that they would shew that he was not kidnapped, that no Force or Compulsion, no Violence of any Sort was used in order to force him to leave this Kingdom. But this they have not so much as attempted to prove, they have not produced one Witness to shew that the Plaintiff was willing to go abroad. So that our Assertion stands good, that the Defendant, now called the Earl of *Anglesey*, did contrive to transport *James Annesley*, (at that Time on his Father's Death, the right and lawful Lord *Altham*) in this Cause Plaintiff, to *America*, there to become a Slave, or otherwise to be exposed to the Dangers of the Seas, the Difference of Climates, the Unwholesomness of Food, or the Want of any, to put an End to a Life that stood in the Defendant's Way. But poor and despicable as the Plaintiff was, friendless, abandon'd, and at that Time unassisted by human Aid, the Hand of Providence was with him, secured him from the Hazards of the Ocean, the Inclemencies of the various Climates he passed through, the severe and endless (for fourteen Years is a very long time) Slavery he underwent, afforded him a Dawn of Freedom, procured his Enlargement, inclined one of the greatest Heroes this Age can boast of, safely to conduct him to these Kingdoms of Liberty, raised him Friends to stand by him, when the Defendant sought his Life, and at last has brought him openly into Court before your Lordships, and the worthy Jury, here to assert his undoubted Right, and plainly shew to the World the Injuries he has sustained.

My Lords, the Plaintiff was very young when he was transported, a meer Boy, about twelve Years of Age, and then in no Capacity to assert his Right; he was poor, abandon'd by all, ragged, and almost naked; the Defendant, the Earl of *Anglesey*, rich, honour'd with a fresh Accumulation of Grandeur and

Honour, proud, imperious, avaricious, luxurious, cruel, inhuman, and every way qualified and inclined to Oppression. A Person of this Temper, could he bear that a Boy in such mean Circumstances, who had been, we own, greatly neglected by his Parents, should succeed to the *Anglesey* Estate, especially, if any Pretence could be found (just or unjust) so to manage Matters, as to disinherit him. Your Lordships, I hope, will indulge me, whilst I lay before the Jury, (before I speak to it from the Evidence) the Manner and Method in which I apprehend this Affair happened. The Plaintiff I take for granted was born at *Dunmain*, and was the Son of Lady *Altham*, begotten by Lord *Altham*. Soon after the Plaintiff was born, it was found inconvenient to keep the Child at home, for several Reasons. *First*, because Lord *Altham* was a cross and passionate Man. *Secondly*, because Lady *Altham* was a thin and sickly Woman. *Thirdly*, because several of the Gentry do put out the Children, for the good of them; Nurses being apt to drink and live too high in great Families. And *Fourthly*, because it saves Expences, &c. for Lord *Altham* had not much Money to spare. In the Year 1714. *Joan Lundy* was then a Servant in the Family, some suppose she was married to a Sailor, one of the Witnesses swears his Name was *Cormick*, but others say, my Lord *Altham*, the Defendant, *Ralph*, the Dog-boy, and others, got *Joan Lundy* with Child. However this was, whether she was with Child by the Sailor her Husband, or any of the Parties mentioned, on her leaving the Service, she returned to her Father's House, a little Way from *Dunmain*, and there lay in some time before Lady *Altham* was brought to Bed. Lady *Altham* at first imagined that her Lord was the Father of *Joan Lundy*'s Child, but her Ladyship being afterwards convinced of the contrary, and perswaded that *Lundy* had her Child by *Cormick* her Husband, puts her Son and Heir under her Care, for though one *Furlong*'s Wife was proposed to her Ladyship, yet upon Enquiry, *Lundy*'s Milk was found to be the best. But before the Child

was

was sent thither, Lord *Altham* had an Addition built to old *Lamb*'s House, had it white-washed, put a Bed into it, made a Fire-place, and put Furniture into it. And caused a Road to be made for a Coach to carry his Lady from *Dunmain* thither, and so back again. The Plaintiff was here at Nurse for eighteen Months. Some Time after this Lord and Lady *Altham* posted on Account of *Thomas Pallifer*. Her Ladyship removed to *Ross*, and was sickly, and not in Circumstances to take a proper Care of the Child, and Lord *Altham* having taken his Son home, and the Plaintiff was supposed by all to be his lawful Son, and he took Care of his Education, cloathed him, and put him to School. But so it happened, that Lord *Altham* became acquainted with one Miss *Gregory*, who became his Mistress. That Miss *Gregory* assumed the Title of Lady *Altham*, and promised herself, that if Lady *Altham* should die, Lord *Altham* would marry her. Upon this, she became an Enemy to the Plaintiff, and could not be easy whilst he was under the Care of Lord *Altham*. In short, she thrust the Boy out into the World, when he was scarce eight Years old: gave out that he was a Bastard, that he was the Son of *Joan Lamb*; the Boy became a Vagabond, and the Defendant willing to have it so, though he knew to the contrary, encouraged the Report, used the Plaintiff accordingly; and when Lord *Altham* was dead and buried, in a kidnapping Manner got him transported, under Pretence of being hired as a Servant, and sent into *America*.

My Lords, it has plainly appear'd on the Trial in this Cause, and from the Circumstances thereof, that the Plaintiff, Mr. *Annesley*, was transported, and did not return to *England* 'till the Year 1741, at which Time he asserted his Right to the *Anglesey* Estate; and, my Lords, it appears also, that it was well known that the Lessor of the Plaintiff, Mr. *Annesley*, was in *America*.

My Lords, the Defendant has not produced one of the Family in Favour of his Side of the Question, though he lives amongst them, and is so well acquainted with them; but, my Lords, in Behalf of the Lessor of the Plaintiff,

laintiff, Mrs. *Anneſley*, a Relation of the Family, has vorn poſitively, it was well known in the Family that ady *Altham* had a Son at the Time ſworn, and who is ie Plaintiff in this Cauſe.

I ſhall now proceed, my Lords, to ſpeak to the Evi-ence for the Plaintiff, and compare Notes between that nd the Defendant's Witneſſes.

And, my Lords, tho' Mr. Prime Serjeant has taken ich great Pains to invalidate the Teſtimony of our Vitneſſes, we ſhall ſhew your Lordſhips that his Ar-ument is nothing but Froth, and of Courſe muſt fall) the Ground.

As to Mrs. *Cole's* Evidence, my Lords, it is true and lain that ſhe was invited to *Dunmain* by Lord and Lady *ltham*, and did go down there with her Mother in the pring of the Year 1714, and ſtaid there a conſiderable ime, and notwithſtanding it is objected that the throw-ig and breaking the Saucers was done without any motion from Lord *Altham*, yet Mrs. *Coles* ſwears it as done in a Paſſion, and that they were thrown very ear my Lady's Forehead, who immediately fell into a it of Tears. *Rolph* was the Butler, who waited at able, and Mrs. *Briſcoe* ſat at the Right Hand of my ady, and by my Lord's ſaying —— You know, I or-er'd thoſe Saucers never to come to Table, and throw-ig them ſo near my Lady, there is much Reaſon to elieve my Lord was angry with her, in not taking are that the Butler or other Servants, ſhould not bring em to Table; elſe it is moſt natural to believe, he ould have thrown them at the Servant's Head who rought them in. Lady *Altham* was a Woman of ire and Spirit; could ſhe ſit tamely down, and not ſent ſuch Treatment, as Mrs. *Heath* would have it? ſo, her Paſſion wanted Vent, it was ſtifled, at being us uſed before Company; and that threw her into Illneſs, which the Night following occaſioned her miſcarry.

My Lords, Mrs. *Cole* was only then about the Age of velve or thirteen Years, yet her Mother being called up the Night out of the Bed, where ſhe lay with her, is

a Cir-

a Circumſtance that, on ſuch an Occaſion, muſt leave ſome Traces upon the Mind. We do not ſay ſhe was called up herſelf, but that *Mary Heath* called her Mother up, for Lady *Altham* deſired her to come. This is poſitive and plain; it is unneceſſary therefore for the Gentlemen on the other Side to make ſuch Comments on theſe Relations, as to ſay the Girl had dreamt of ſuch a Thing, and told the Story ſo often, that ſhe believed it to be Truth herſelf.——As to the Miſcarriage itſelf, I ſhall leave it to the Gentlemen of the Jury, whether a Girl of thirteen Years of Age is not old enough to know what a Miſcarriage is? ſhe may not perhaps know ſo well as a Perſon of five and twenty; but if one of that Age is not candid enough to give us the Truth of ſuch an Affair, I hope the Gentlemen will now believe a Perſon of Mrs. *Cole*'s Age, who probably may have been more acquainted in ſuch Matters ſince.

My Lords, as to the ſecond Miſcarriage, which was in *Dublin*, Mrs. *Mac Cormick* ſaid, that my Lord one Evening had ſome high Words with Mrs. *Heath*, my Lady's Woman; which my Lady hearing, was very much frightned, and ſcreamed out; that Mrs. *Heath* told my Lord, my Lady had, or was going to miſcarry; and thereupon my Lord called for Mrs. *Lucas*, a noted Midwife, and Mrs. *Lawler*, to her Aſſiſtance. She does not ſay ſhe was preſent during the Attendance of the Midwives after the Miſcarriage.——My Lords, the Defendant's Council objected to the Plaintiff's Witneſſes, Mrs. *Coles* and Mrs. *Briſcoe*, from telling what their Mother had ſaid to them; but as the Court were pleaſed to admit the Objection, I ſhall content myſelf with obſerving, that it ought to be concluded, there was ſomething more in that Matter than the Defendant's Council were inclined to hear; and I believe the Jurors will be of that Opinion when they come to conſider of it: tho' it was Hearſay Evidence, it could not be calculated or ſpoke for this Occaſion, when their Mother told them Lady *Altham* was with Child.

My Lords, Mrs. *Bates* does not pretend to relate any Thing of the Miſcarriage from her own Knowledge. She ſays, ſhe heard her Maſter and Miſtreſs, Captain

Briſcoe

Briscoe and his Wife say, Lady *Altham* had miscarried at *Dunmain*; as she was a Servant in the House where Lord and Lady *Altham* had but a few Months before been reconciled, it was natural for a Servant to enquire how they did, when her Mistress and Miss *Harriot* her Daughter came to *Dublin* from *Dunmain*. Neither was my Lord speaking so free to this Witness in telling her, his Lady, which he called *Moll*, was with Child, so very extraordinary, for it was a great Part of Lord *Altham*'s Character to make free with Servants and People much beneath him. This was, my Lords, three Quarters of a Year after the Reconciliation, and about four Months after the second Miscarriage, so that there was nothing so extraordinary and impossible as the Council of the other Side would insinuate, of two Miscarriages happening in that Time. This Witness might probably be admitted into her Bed Chamber or Dressing Room, when Lady *Altham* was dressing, and might assist therein, notwithstanding it was the Business of her Woman Mrs. *Heath* to do it, and consequently had an Opportunity of observing Lady *Altham* to grow big about the Waste; she wished Lady *Altham* Joy of it, in the Presence of Lord *Altham*, which she thanked her for.

My Lords, as to Mr. *Carty*, he would have related a Discourse that he had with Lord *Altham*, but the Gentlemen for the Defendant were not inclinable to hear it, as they call it Hearsay Evidence. 'Tis true he only was an Innkeeper, and Lord *Altham*'s Horses stood at Livery in his Stables; but he says, that it was reported Lady *Altham* had a Child, and it is very likely, his House being publick, that Lord *Altham*'s Servants spoke of it there. He says, this was about a Year and half after the Death of Queen *Anne*.

My Lords, the Manner that Mr. Prime Serjeant treats the Evidence of Major *Fitzgerald*, seems as if they look'd upon his Visit at *Dunmain*, and his being shewn the Child by the Lord *Altham* and Nurse, to be nothing but a Piece of Legerdemain, play'd off by Lord *Altham*,

them with the Contrivance of the Maid, *Mary Doyle*, for a Purpose which no Body can account—My Lords, they well knew that if they went to make an Objection to the Credit and Veracity of the Major they would miscarry, therefore they owned the Fact, though they would make us believe the Major was imposed upon.—My Lords, the Major might be mistaken in the Time of the Year, when he said it was after the Harvest was got in, but as he is so particular to the Facts, I hope the Jury will believe him. He swears he was invited by my Lord *Altham*, who he saw at *Ross* (having contracted an Acquaintance with him a Year before at *Prospect-Hall*, in the County of *Waterford*) to dine with my Lord at *Dunmain*.—The Major would have excused himself from going, because he was before engaged to dine the next Day with some of his Brother Officers; but my Lord insisted on it; for he said he must come and taste the Groaning-Drink, his Wife being in Labour. The Major says, that the next Day, my Lord sent him Word to *Ross* his Wife was brought to Bed of a Son, and that he would not take any Excuse, for that the Major should come and dine with him. The Major went the next Day, and my Lord swore he should see his Son; that the Nurse brought the Child into the Room, and the Major gave her Half-a Guinea. This was *Mary Doyle*, who the Major took Notice of, because he thought her handsome, and; my Lords, this Woman has been in Court, and has certainly the Remains of a fine Countenance. The Major says, he saw the same Person the Day of his Examination.—I believe *Mary Doyle* was mistaken when she said the Major laid at *Dunmain*, but as she was engaged with the Child and her Lady, she is to be excused.—This is so plain and positive, that nothing, that has been yet said to the contrary, can overthrow the Major's Evidence.

My Lords, it is very reasonable to believe that Lady *Altham* did send those civil Compliments to the Major, as the Major has sworn were brought; and which, Mr. Prime Serjeant imagines, were only imposed upon him by the Maid; and, my Lords, Lady *Altham*'s not appearing

pearing at Table when the Major was there, is a great Confirmation of the Truth of what he has said.

My Lords, Mr. *Turner*, who was a Witness for the Plaintiff, has not, I think, been used with that Decency and good Manners that he ought, unless there had been some Proof that his Character was as it has been described. My Lords, he came for the Sake of Truth and Justice, a Man may be mistaken as to one particular trifling Circumstance; what was the Eclipse to this Gentleman, he had other Business in mind than to keep a Journal of the Motion of the Planets, he left that for your Astrologers; and, because he can't tell you the exact Time when the Eclipse happen'd, 30 Years ago, is all his Evidence to be look'd upon as false, and as if made for this particular Purpose? My Lords, it is not a fair Way of using People, they have not produced one Person to impeach Mr. *Turner*'s Character, and I hope the Jury will give Credit to his Evidence.

My Lords, we allow he was Seneschal to Earl *Arthur* and Earl *James*, and consequently was the most likely to be acquainted with Lord *Altham*, and to know the Affairs of the Family; my Lords, he declares he saw Lady *Altham* at *Dunmain* in *Lent* 1714, and that she was then big with Child; this is agreeable to her Appearance at that Time, which the other Witnesses, examined for the Plaintiff, are also positive in.

My Lords, the next Time Mr. *Turner* saw Lady *Altham*, she told him she had a Son, Mr. *Turner* was at *Dunmain* afterwards, and saw the Child, and had him in his Arms.—My Lords, he declares that he saw the same Boy afterwards at *Ross* and *Kinsale*, that he was then dressed and treated as the Son of a Nobleman, and therefore it is no wonder, when he was told in *Dublin* afterwards, that a Person he saw in a miserable bad Dress was Lord *Altham*'s Son, that he gave no Credit to what he heard, or that he could scarce believe his Eyes. Mr. *Turner* was at a Tavern in *Dublin* one Day with Lord *Altham*, and my Lord said he would send for his Boy, that he might see how he was grown, and did

make

make use of those Words, which the Gentlemen of the Defendant's Council have unnecessarily transposed.

My Lords, I cannot think it necessary, that a Gentleman, who goes sometimes a visiting to a Nobleman, should remember the Names of the Servants; Mr. Prime Serjeant was very angry, this Witness could not tell the Servants Name who made his Bed.

My Lords, Mr. *Turner* did certainly say he heard the Child, buried at *Dunmain*, had been dead many Years; how such a Report prevailed is more than I can tell, but it cannot be supposed to be in the manner as hinted by Mr. Prime Serjeant.

My Lords, as to the Improbability of Mr. *Turner*'s being employ'd to by Lord *Altham* to speak to Lord *Anglesey* to help maintain his Son, it is not at all unlikely. Lord *Altham*'s Cash, with Extravagance and High-Living, began to run mighty short, and if he could get 50 *l.* for asking for, Lord *Altham*'s Necessities were too great to refuse such an Offer.

My Lords, I have now, I think, fully shewn and answer'd this first Fact of the Tragedy, as it may be justly called; I have shewn you that Lady *Altham* had two Miscarriages, one at *Dunmain*, the other at *Dublin*, and those nearly to each other. I come now to speak to the Evidence of the Witnesses, who were immediately concerned and employ'd at the Birth.

And, my Lords, as to *Dennis Redmond*, we allow that he was an inferior Servant in the Family, he was the Groom, and used to look after Lord *Altham*'s Hunting Horses; My Lords, he says, that he came into Lord *Altham*'s Service at *Dunmain* about 30 Years ago, which must be about the latter End of the Year 1713, and not in the Year 1721, as was represented by the Defendant's Council. He says he staid about three Years in the Service; this was 'till the Year 1716 or 1717, so that he is a very good Evidence, and can certainly tell whether there was, or was not a Child in the House whilst he was Servant there. He declares that he saw Lady *Altham* big, and that 'twas the Talk of all the Servants she was with Child. He says he was sent for

the Midwife the Day before the Delivery; therefore as to the Objection that she was not in the House before, the same Answer may serve, as was given about the Nurse, that Lord *Altham* could not spare more Money for such Uses than was barely necessary; besides it is very probable there was no other Midwife in that Part of the Country, and a Person of her Employment, for the Sake of other Women in the same Condition, could not be long from Home, or out of her Business, and, as this Gentlewoman, Mrs. *Shirk*, was brought from *Ross*, 'tis very likely there was a Correspondence between her and Madam *Butler*, who was one that assisted at the Delivery. He declares further, that the Child was christened, when he was about three Weeks old, by Mr. *Lloyd*, and that the Gossips were Counsellor *Cliff*, Mr. *Colclough* and Madam *Piggot*. *Joan Landy*, he says, nursed the Child, because her Milk was best as he was informed. He says the Coach road was made on Purpose to go see the Child; that the Child staid out at Nurse about a Year, and then was brought back to *Dunmain*. He says my Lady left *Dunmain* on Occasion of Mr. *Thomas Palliser*. He relates very exactly that unhappy Scene of my Lord and Lady's Parting; it was at the Beginning of the Year 1717, he says, (so that it comes within the Time of the Service that he said he lived there) that this Affair happened; Lady *Altham* was taking her Leave, and kissing the Child at the Door, where it is probable all the Servants and poor Neighbours round were assembled to see my Lady go; and my Lord came out in a Passion, took the Child from her, and gave it to *Joan Laffan*. My Lords, he says, he saw the same Child afterwards at *Carrickduff*, that it was dressed like a Nobleman's Child. As to *Joan Landy*, she was brought to Bed some Months before Lady *Altham* was; and tho' her Marriage is not clearly made out to have been solemnized before she was brought to Bed, yet as a Sailor was reported the Father of the Boy when he was gone to Sea, she was not an improper Person for a Nurse. My Lords, *Redmonds* lived in the Neighbourhood of *Dunmain* after Lord *Altham* left it, and he particularly

swears,

swears, that *Landy*'s Child, which was sometimes called *Landy*, sometimes *Cornish*, but never *Annesley*, died of the Small-Pox, at the Age of three or four Years. That this Child of *Landy*'s was nursed by her Mother and Sister, and that the old House of *James Landy*'s was put in Repair for the Reception of my Lady's Child. My Lords, this is a plain Account of the Fact, and tho' he is an inferior Person, and poor, I hope it will be no Reason for the Jury not to regard his Oath; and, my Lords, his being desired by Mrs. *Pallifer*, the Elder, not to give Evidence in this Cause, shews that the Agents for the Defendant were afraid this Man's Testimony would greatly hurt him.

My Lords, the Evidence of Mrs. *Shircliff* is not very considerable, excepted to general Report, and was not necessary, as the Court had before objected to Hearsay Evidence.

My Lords, as *Mary Doyle* was so fortunate to be a Servant at Lord *Altham*'s during the Time the Plaintiff was born, that she did not stay there many Months, she may yet give an Account of the Transactions that were there whilst she did stay, and it is very happy for the Plaintiff that she is now alive, and above the Reach of Bribes or Promises; she was but a Chamber-maid at that Time, but she was in the Room when her Lady was brought to Bed; she says that Mrs. *Shiels* was the Mid-wife, and *Redmonds* was sent for her, which is the same as *Redmonds* said. She says, the Christening of the Child was publick, that she was present at it, that there were great Rejoicings for the Birth, and Plenty of Wine and other Liquors drank on that Occasion. She tells you who were the Godfathers and Godmother, where the Child was christen'd, that it was in the Parlour, and she positively declares that Mrs. *Heath* was present at it, tho' that Lady does not think proper to own it. She says, several Nurses were recommended, but *Joan Landy* was appointed; tho' she is not certain whether *Landy* was then married. She allows that she never was at *Landy*'s House, but heard from the Servants that it was finely white-wash'd. *Charles Meagher*, she says,

was

was Butler at that Time, tho' others have sworn *Ralph* was.—She says Lady *Altham* was taken ill the Day before she was brought to Bed, and so said *Redmonds*.

My Lords, *Eleanor Murphy* confirms the Evidence of *Mary Doyle* in almost every particular; and she says she has never seen her since she left *Dunmain*; that she never had any particular Conversation with her about the Child, and is not certain whether she should know her if she saw her now.

This, my Lords, can be no Contrivance or Forgery between these People, as the Jury and your Lordships were desired to believe. *Murphy* says she carried Water into Lady *Altham*'s Room immediately after her Lady was delivered. Mrs. *Neil* was the Midwife, and *Redmonds* sent for her. This is what *Doyle* and *Redmonds* swear to.—Madam *Butler* and Mrs. *Heath* was in the Room likewise; she swears also to the Bonfires and Rejoicings; that *Lady* was the Nurse, that the Gossips were Mr. *Cliff*, Mr. *Colclough*, and Madam *Piggot*. She says, that *Lady*'s Child was three Quarters of a Year older than my Lady's.—And that it was at Home with the Mother when my Lady's was at Nurse; she says, there was a Room added to the old House, but acknowledges she did not go within Sides; this I cannot think is necessary, because the Addition might be seen as well on the Outside. The Depositions of these Witnesses are so full, congruous, and convincing, that I am surpriz'd to hear the Objections that have been made to them; these People come and tell us plain Matters of Fact, they know nothing of what is afterwards brought to prove the Plaintiff the Son of *Lady*, and yet they agree in every material Circumstance; and I presume they are looked upon by the Jury as the principal Evidence in this Trial, and I hope, and doubt not, but they will give Credit to their Depositions.

My Lords, the Witnesses do vary in Point of Time in relation to the great Eclipse, but this is pardonable, at the Distance of Twenty-eight or Thirty Years; and so I believe the Jury will be of Opinion: but as to the Matter of Fact, there is no Variation among them.

'Tis

'Tis true, the Gentlemen on the other Side, on the Cross Examination of the Plaintiff's Evidence, have shewn their Ingenuity; and by their artful Method of interrogating, they have sometimes puzzled and perplexed them; but yet the Truth has remained entire, the Fact stands firm, and we have proved that Lady *Altham* was with Child, was brought to Bed of a Son, and that that Son is the present Plaintiff in this Cause; that Lady *Altham* had no Son, is apparent from the Evidence of *Higgons*, whose Veracity and Character was never called in Question by any Gentleman in his Neighbourhood. He sweats that Lady *Altham* was brought to Bed of a Son on the Nineteenth Day of *April*, in the Year 1715. His Character was not impeached, I say, by the Defendant's Council, for when Col. *Lostus* and Mr. *Coldnigh* was examined, no Questions were asked in Relation to the Credit of the Gentleman.

My Lords, the Lord *Mount Alexander*, Colonel *Pigot* and Alderman *Barnes*, they all swore, that it was the general Report, the common Belief, that Lady *Altham* had a Son; and when Colonel *Pigot* would have related to the Court, what he had heard his Mother say concerning her being Godmother to the Son of Lord *Altham*, the Defendant's Council objected to it as Hearsay Evidence, and the Court was pleased to admit the Objection. As to Major *Fitz-Gerald*, it is plain, he swears positive as to the Matter of Fact, only he had forgot as to Point of Time, and that is no Wonder, my Lords, at the Distance of almost Thirty Years.

My Lords, as to *Joan Landy*'s not being examined by the Plaintiff's Council, which the Gentlemen on the other Side have laid great Stress on, I will soon clear that Matter. My Lords, we of Council for the Plaintiff did offer her to be examined to the Gentlemen of the other Side, but they refused it, and the Reason is plain, why she was not examined, she had been tampered with, and upon Examination that would have come out, and it would have appeared who had tampered with her.

My

My Lords, *Ralph* and others swear that it was well known, that *Joan Landy* was with Child by Lord *Altham*, the Defendant and the Dog Boy! That she was three Months in the House after Lady *Altham* went into the Country, and that *Joan Landy* was brought to Bed in the Month of *April* following. Can it be supposed, my Lords, that Lady *Altham*, immediately after the Reconciliation with his Lady, would keep a Woman six Months gone with Child, and so well known in the Country, as has been proved by the Defendant? No, it can't be believed by any Person from the Nature of the Thing itself.

The next Observation made by the Gentlemen on Behalf of the Defendant is, that it is improbable that the Child should be sent out to nurse. To which I answer, that Noble People do frequently send out their Children to be nursed abroad, to prevent the Nurses living too high, and this is done for the Good of the Child. It is very well known, and we have a Precedent in this Town, that the Earl of *Kildare* sent the Lord *Offley* out of his own House to be nursed to a little House over the Water.

As to the Meaness of the House the Child was nursed in, the three Witnesses examined for the Defendant to that Point all disagree about the same.

Elm says, there was a Partition of Sodds.

Ralph says, the same lay open, and third that a Bush was for a Door.

My Lords, *Furlong*'s Application for the Nursing of the Son of Lady *Altham*, was two or three Months before Lady *Altham* was brought to Bed, and his Wife's Milk was upon Examination disapproved of.

My Lords, I shall now proceed to make some Observations on the Evidence given by the Defendant's Witnesses. And first, my Lords, the Defendant had it in his Power to produce the whole Country, as to the Reputation, but he has not done it; he has only produced the following Persons.

The first is Mrs. *Heath*, and the Second is *Ralph*. These contradict one another, but, my Lords, they both

both agree in the same Words, that they were led by Curiosity to see the Child: The Child of whom? The Child of the Dog Boy, or whether it was Lord *Altham*'s. When they saw the Child, as they say, it was naked, and Mrs. *Heath* says, she gave it a Cambrick Handkerchief.

My Lords, As to the Trial at *Wexford* Assizes, when certain Persons were tried for inlisting Men into the Pretender's Service, in Spring, in the Year 1715, which Assizes, the Council on the Side of the Defendant have attempted to fix to the very Time that Lady *Altham* was deliver'd of the Plantiff, and endeavour to persuade the Court and Jury that her Ladyship was at the Assizes, it is plainly a made Story, which will fully appear from what follows.

Mrs. *Giffard* in her Evidence names every Body that went with Lord and Lady *Altham* to *Wexford*.

Robb says the same, but Mrs. *Heath* adds to the Number Mrs. *Giffard*'s Sister, which Mrs. *Giffard* had forgot.

Mrs. *Giffard* swore, that Mr. *Colclough* sat by Lady *Altham* most Part of the Trial of the Pretender's Men.

This is the Evidence the Defendant on his Behalf has given to prove that Lady *Altham* was at *Wexford* Assizes.

The Plaintiff's Evidences in Relation to this Point in Question are;

Mr. *Colclough*, he swears, that he was Foreman of the Jury at that Assizes, and says, that no Lady sat by him, says, he knew Lady *Altham*, and positively affirms, that he did not see her Ladyship in Court, nor any where at *Wexford* during the Time of the Assizes.

Mr. *Ker*, he says, that *Masterson*'s Trial was on *Monday* and *Tuesday*, and in his Evidence he fixes the Day the Assizes began on, and says, that he did not see any Ladies there.

Higginson, my Lords, swears, that Lady *Altham* was at the Time of the Assizes at *Wexford*, at her own House at *Dunmain*, and that he saw her Ladyship there.

Turner swears, that he went with Lord *Altham* to the Assizes at *Wexford*, waited on his Lordship at the Time

he was there, ſays, that Lord *Altham* was not there at that Time, but was at Home at *Dunmain*.

But, my Lords, on the Behalf of the Defendant, one *Rolph* was produc'd, and he ſwears that he was Lord *Altham*'s Gentleman, that he went to the Aſſizes at *Wexford*, that he never ſaw his Lordſhip there, nor did he know where Lord *Altham* lodged in that Town.

My Lords, the Defendant has produc'd four Evidences, *viz.* Mr. *Palliſer* the Elder, Mr. *Aaron Lambert*, Mr. *Palliſer* the Younger, and Mr. *Elms*. All theſe Perſons ſwear, that they viſited Lady *Altham* once a Fortnight, and that her Ladyſhip could not be brought to Bed without their Knowledge, and if Lady *Altham* had had a Son, they muſt know it, and muſt know her Son too, from the frequent Viſits they made her Ladyſhip. Now, as to the Credit to be given to theſe Witneſſes, Mr. *Palliſer* the Elder ſeems to be a Man that has loſt his Remembrance, for he did not know when he was in the Barony of *Forth*, or when in the *Great Iſland*. Mr. *Lambert* is in the very ſame Caſe, for he has even forgot the Day he was married on. And as to Mr. *Palliſer* the Younger, his Teſtimony is quite raſh and incredible, for he ſays, that he never told Lady *Altham* of her Lord's Intentions to part with her, and that he gave his Lordſhip no Provocation to draw his Sword on him, to knock him down, and cut a Piece of his Ear off for a Remembrance of the Attempt he was then making on Lord *Altham*'s Honour.

My Lords, the Plaintiff has proved that a Road was made to *Joan Landy*'s Father's Houſe, where the Child was nurſed, and this is not contradicted by the Defendant's Witneſſes; but then they on the Side of the Defendant give this Reaſon for making the Road, *viz.* for the Conveniency of going to Mrs. *Giffard*'s. Now, my Lords, Mrs. *Giffard* ſwears, ſhe never went that Way.

Edward Lutwich's Evidence is, that he ſaw the Child at *Roſs*, and that the Child was brought thither by Stealth, and that Lady *Altham* in *Dublin* mentioned her Child. And all the Circumſtances of his Teſtimony (except that Part of the Child's being mentioned) is confirmed by the Teſtimony of Mrs. *Heath*.

My Lords, Alderman *King*'s Teſtimony that her Ladyſhip,

dyſhip, tho' very free in her Converſation, never once mentioned her having a Son, has no Weight in it; and as to Lady *Altham*'s not taking Notice of her Child, it plainly appears, that ſhe was confined to her Chamber, and knew nothing but what came from the Mouth of Mrs. *Heath*. Lady *Altham* left this Kingdom in *September* 1724, and, my Lords, it has been proved that the Leſſor of the Plaintiff Mr. *Anneſley* was in the Cuſtody of Lord *Altham* till the Month of *Auguſt* 1724, and *Herd* the Defendant's own Witneſs proved the ſame; and it is very probable that Lady *Altham* in that ſmall Space of Time could not hear of him; that the Leſſor of the Plaintiff was taken care of and kept as the Son of a Nobleman, was proved by Mr. *Miſſet*, a Man whoſe Character is unexceptionable; and this is likewiſe proved by Mr. *Byrne* and *Cavenagh* and others when at *Carrickduff*, that the Plaintiff was treated and acknowledged as the Son of Lord *Altham*; and Mr. *Byrne* ſaid, that he would reſent the Plaintiff's being brought to his Houſe or Table, if he was or he thought he was the Natural Son of Lord *Altham*.

My Lords, Mrs. *Heath* ſays, that Lady *Altham* had 100 *l.* a Year to live on till the Death of Lord *Altham*, and that then ſhe was to have nothing, and tho' Lady *Altham* lived two Years after, yet ſhe had no Maintenance, but lived on the Charity and Kindneſs of the Dutcheſs of *Buckingham*.

My Lords, the Limitation of the Settlement under the Will of *James* Earl of *Angleſey*, *Arthur* Lord *Altham* had but a Tenancy for Life. It was infallibly for the Benefit of *Arthur* Lord *Altham* to abandon his Son, for then the Purchaſer ſtood the Chance of the Eſtate coming to the Defendant, after the Death of *Arthur* Lord *Altham*, if the Child was dead or put out of the Way, and ſo they joining both together, could the eaſier raiſe Money by the Sale of ſuch Part of the Eſtate they pleaſed to ſell. Beſides, my Lords, Miſs *Gregory* had ſo great an Intereſt in or Influence over Lord *Altham*, that ſhe could make him or lead him to do any Thing, how abſurd ſoever. She took the Title of Lady *Altham* on her, in Expectation that Lady *Altham*

would die, that ſo her own Children might ſucceed to the Eſtate.

As to the Tranſportation of the Plaintiff, my Lords, the Action ſpeaks for itſelf, tho' the Mind and Intentions of Men may vary. And, my Lords, the Name of *Anneſley* and *Henneſley* is as different as any two Names whatſoever, and it appears from the *Tholſell* Books, that one hundred and fifty Perſons were indented there, and yet by the Merchant's Book but forty of the Indented went abroad.

My Lords, if the Leſſor of the Plaintiff, Mr. *Anneſley*, was indented at the *Tholſell*, Mr. *Gonne* the Town Clerk, who had been for many Years acquainted with Lord *Altham*, the Plaintiff's Father, he muſt have known Mr. *Anneſley*, and undoubtedly Mr. *Anneſley* muſt have known him alſo; eſpecially, ſince it has appear'd by the Evidence of one of our Witneſſes, that a ſtrict and diligent Enquiry is always made at the *Tholſell* Office, as to the Parents and Relations of all thoſe who come thither in order to be indented, to go out of this Kingdom, to any of the Plantations. And, my Lords, it is well known, that it is the regular and conſtant Cuſtom of that Office, to aſk the Parties coming to indent, the Reaſons of their going abroad, and whether it is with the Conſent of their Parents, their Friends and Relations, and generally one or other of theſe come with the Party or Parties indenting, at the Time he or they are indented; therefore it is very plain, that the Plaintiff muſt have been put on board the Ship, in the ſecret, forcible, kidnapping Manner, as has been fully, and I hope, ſatisfactorily proved.

As to Mr. *Giffard* the Attorney's Teſtimony concerning what the Defendant, the Earl of *Angleſey*, told him, relating, that the Plaintiff Mr. *Anneſley* was his Brother's Son. This is true, and his Evidence ſtands good, and without the leaſt Impeachment.

The Evidence, my Lords, of *Joan Laffan* is poſitive and invariable, tho' ſhe was examined a ſecond Time,

Time, at the Diſtance of three Days, and the Court was pleas'd to ſay, that *Joan Laffan* did not vary in her Teſtimony.

Therefore, my Lords, as this is a Cauſe of the greateſt Moment to the Kingdom in general, and to the Parties in particular, from the Conſequence of it, and the Circumſtance of the Caſe, the Jury will conſider it well, and look with the more careful Eye, and have no reſpect to Perſons or Conſequences, but do Juſtice, and give a juſt Verdict, which I hope and preſume will be on the Side of the Plaintiff.

Mr. Serjeant *Tiſdall*, of Council with the Plaintiff Mr. *Anneſley*.

My Lords, and Gentlemen of the Jury. In ſpeaking to this Caſe, it will be neceſſary, before I go into the Evidence, to take Notice to your Lordſhips and the Jury, that the Plaintiff Mr. *Anneſley*'s Mother, had no Relation in this Kingdom, nor had his Father any, nor has the Defendant in the Progreſs of this Trial produced any Witneſſes to prove the contrary. The Defendant has done his utmoſt, as to this Point, and he has failed therein; And tho' the Defendant is a Peer both in *England* and *Ireland*, and in Poſſeſſion of the greateſt Eſtate in this Kingdom.

But, on the other hand, my Lords, the Leſſor of the Plaintiff was ſent out of the Kingdom, and was abroad fourteen Years. He was tranſported by the Defendant in an illegal and villainous Manner. What Evidence could the Plaintiff get, or who was he capable of procuring, when he firſt came to *Ireland*? He muſt therefore be obliged to the Courteſy of theſe Witneſſes, who were pleaſed to aſſiſt him in making his Pretenſions and Claim to his undoubted Right, for he knew none of them, by reaſon of his long Abſence, and his Youth, being a mere Boy when he was barbarouſly forced to leave the Place

of

of his Nativity. Surely, my Lords, Application in ſo ſingular a Caſe muſt be made by Agents on the Behalf of the Plaintiff, to Perſons, to find out the Truth, and it does not appear that there has been any tampering with any of the Witneſſes, of our Side.

Indeed, my Lords, there is one *Rolph*, who ſays, Mr. *Mac Kircher* offer'd him a Lieutenancy, but then *Rolph* ſaid at the ſame time, he knew it was not in *Kircher*'s Power to give it him. And this he ſaid in the Preſence of two or three Perſons, and the very firſt Time he ever ſaw *Kircher*. Can it reaſonably be ſuppoſed, that *Kircher* would put himſelf into the Power of *Rolph* to undo and ruin the Plaintiff's Cauſe, as ſuch a Procedure would effectually have done? On the other hand, Can it eaſily be believed, from what *Rolph* ſays, he would not accept of a Lieutenancy, and that he lives above that Want? Surely then, Mr. *Kircher* would not have attempted to tamper with him.

My Lords, the Plaintiff's producing Mrs. *Blake*, ſhews plainly, that he intended to produce and did produce her as a fair Witneſs, that could give the Court and Jury ſome Light into the Queſtion now in Diſpute.

My Lords, I will now ſpeak to the Evidence in general on both Sides, and I ſhall ſhew from the whole, that the Plaintiff Mr *Anneſley* is intitled to a Verdict.

My Lords, *Mary Doyle* and *Elinor Murphy*, on the Part of the Plaintiff. Theſe Witneſſes prove the Birth and the Chriſtening, and ſay, that *Redmonds* was ſent for the Midwife, and *Redmonds* ſays, he went for the Midwife. Colonel *Palliſer* applied to *Redmonds* about it, on behalf of the Defendant, before any Application was made to him by the Plaintiff.

My Lords, there is no Doubt but there was a Road made, for *Rolph* ſwears the Road was made three Quarters of a Year before Lady *Altham* came into

into the Country, for the Conveniency of going to Mrs. *Giffard*'s, and further says, that it was made before the Cabin was built; which is impossible, for Lady *Altham* was not in the Country at that Time; and Mrs. *Giffard* swears she never went that Road.

My Lords, as to the Meanness of the Dress of the Witnesses for the Plaintiff, that is no Argument in Disfavour of his Cause, they being the Servants that were in Lord *Altham*'s House. There is but little Variation in the Circumstance of Time between the Plaintiff's Witnesses. But your Lordships will observe on the Evidence of *Rolph*, *Dwyer*, *Cavenagh*, *Kneese* and Mrs. *Heath*, they all swear that during the Cohabitation of Lord and Lady *Altham*, her Ladyship had no Child, was not with Child, or even had a Miscarriage. These are all contradicted by the positive Evidence of the Witness concerning the Birth of Lady *Altham*'s Son, and by all the other Evidences for the Plaintiff.

My Lords, as to Lady *Altham*'s Pregnancy, the Witnesses in the Behalf of the Plaintiff are *Alice Bates*, a Servant Maid at Mrs. *Brisco*'s, at the Time Lady *Altham* came to lodge there.

Mr. *Turner*, his going to *Dunmain* immediately after his Marriage, and Mr. *Higginson* who swears, he saw Lady *Altham* with Child, as by the Circumstance which he observed on his Testimony, and further that he was bound for Lord *Altham* for the Sum of Seventy Pounds, and was at that Time Receiver of his Lordship's Rents.

My Lords, as to Mrs. *Cole*'s Evidence relative to the Miscarriage, it is altogether credible, and that it should make an Impression on her Mind is very reasonable and natural, for her Curiosity might lead her to see what that was, which they said was a Miscarriage, as probably not having seen any such thing before. An older and more experienc'd Person wou'd not have had the Curiosity, as probably having seen the like before. My Lords, this Evidence could not

be calculated for this Purpose, nor could it be dreamt of that any such Dispute, as this, would ever happen? Which leads me to consider the Negative Point of the Pregnancy.

My Lords, *Owen Cavenagh* is the first Witness to this Point, and it appears from his Testimony, that he left Lord *Altham*'s Service, and went to *Dublin*, with the Defendant, on the Defendant's falling out with Lady *Altham*, and further, that when he the Witness was at *Dublin*, he was sick for a considerable Time; and when recover'd, that then he return'd back to the Service of Lord *Altham* at *Dunmain*. So that *Rolph* was not at *Dunmain* at the Time of the Birth of the Plaintiff, if he was, he has not told the Truth and has framed an Excuse for that Purpose.

Anthony Dwyer, swears the same, and therefore his Evidence cannot affect the Plaintiff. But, my Lords, the Evidence for the Plaintiff is positive, both as to the Pregnancy and the Birth of Lady *Altham*'s Son, and as it cannot be pretended, that they have all forsworn themselves, the Evidence for the Defendant must of Course fall to the Ground; and the Jury must judge from the Integrity of the Witnesses produced before them.

My Lords, As to the Evidence given on the Part of the Defendant, where it is asserted, that it was the common and general Report in the Country, all about the Neighbourhood of *Dunmain* and *Ross*; that Lady *Altham* never had a Child, and that no one ever heard that her Ladyship was with Child. The producing Colonel *Loftus* as a Witness to prove this, is rather throwing an Odium on the Defendant's Side; for it appears that Colonel *Loftus* did not so much as know Lord *Altham*'s Family, nay, he had never heard of them.

Colonel *Pallifer* is a ready and forward Evidence, and an Agent in this Cause for the Defendant. And this appears from his desiring *Redmonds* not to appear, and would have persuaded *Redmonds*, that he could say

ſay nothing relating to the Parties concerned in this Cauſe.

Mr. *Palliſer*, the Younger, ſays, he never ſaw Lady *Altham* at his Father's Houſe, and he alſo is a forward Witneſs, and had too much Intimacy in that Family as appears from his own Teſtimony: And is it to be believed, that Lord *Altham* would have told him, his Intention of turning away his Lady, when from his own Evidence he ſaid, that Lord *Altham* never ſpoke to him before on any of his Affairs, nor had he any Converſation with Lord *Altham* before on that Account, or on any other Account whatſoever.

My Lords, he is contradicted by *Joan Laffan*, who ſwears poſitively that Mr. *Palliſer* had Lord *Altham*'s Cap on the Morning of the Separation, and he ſays himſelf that he had his Hat and Wigg on; but when they were Face to Face on the Table, he ſaid he had a Cap on, but could not recollect what Cap he had on; yet from the Circumſtances and Treatment he met with, he muſt for ever remember that Affair and its Particulars to his laſt Day, but would not charge his Memory with that Circumſtance, neither did he ſhew any Reſentment for the Injury, he pretended to have received or ſuſtained; but now he appears here before the Court and Jury, and ſhews the Reſentment he bears the Family, in giving his Evidence in this Cauſe, and particularly to the Leſſor of the Plaintiff.

My Lords, As to the Evidence of *Aaron Lambert* and his Wife, they are not to be regarded; neither is Mrs. *Giffard*'s relative to the Aſſizes of *Wexford*, ſhe pretends to remember every Thing that happen'd there, but did not remember her Siſter was there, tho' in Company, and was going thither appears by the Teſtimony of Mrs. *Heath*.

My Lords, There are the Teſtimonies of Mr. *Colclough*, Mr. *Turner* and *Higgoſon*, for the Plaintiff, againſt the Teſtimonies of Mrs. *Giffard*, *Rolph* and *Heath* for the Defendant.

The next, my Lords, is to the Declarations that Lord *Altham* made, as that his Lordſhip wiſhed he

had a Child. And the Witneſſes to this Purpoſe produced on the Part of the Defendant, were: *Firſt*, Colonel *Harman*, and he could not ſay whether that Converſation was with Lord *Altham* before or after the Death of Queen *Anne*, therefore he is not poſitive in his Evidence, and could not fix any particular Time.

The Second, is Father *Downes*, and his Teſtimony is ſo inconſiſtent, that there is no Force or Credit can be given to him, neither does he fix any Time.

Colonel *Wall*'s Teſtimony goes only to the Year 1725, and of his Apprehenſion of Lord *Altham*'s Title, and, my Lords, Colonel *Becher*'s Teſtimony is inconſiſtent and long before the Time of the Birth of the Son; he ſays, that Lord *Altham*'s Declaration was, that if he had no Son, he did not care if the Eſtate was at the Devil? Theſe, my Lords, is all the Evidence in my Apprehenſion that the Defendant examined on that Point.

It is now neceſſary for me, my Lords, to produce and mention, what the Witneſſes for the Plaintiff ſaid to that Point.

My Lords, Colonel *Piggott*, he ſwears, it was uncontroverted in the County that Lord *Altham* had a Son.

Alderman *Barnes*'s Teſtimony, my Lords, is poſitive; and he ſays, that Lord *Altham* told him he had a Son, and that he was told by five hundred People, that it was ſo.

My Lords, *Joan Landy*'s Child was at that Time known and admitted to be a Baſtard, and it could not be then in the Power of Lord *Altham* to make him his legitimate Son.

The Teſtimony of Lord *Mount Alexander*, from the Delarations of Lord *Altham*, he ſays, that his Lordſhip ſwore, *By God, Grove, I have a Child by my Wife, that will make my Brother's Noſe ſwell.* From all which, my Lords, we have fully proved that Lady *Altham* had once a Child, and it is incumbent on the Defendant to ſhew what is become of him; and, unleſs the Jury can

frame

frame an Opinion, that the Gentlemen before-mentioned can be corrupted, they must believe there was a Child in the Family, and must see what is become of him, for we have shewn that Mr. *Annesley* the Lessor of the Plaintiff is the very Person, and Son and Heir of *Arthur* late Lord *Altham*.

My Lords, the Consistency of *Joan Laffan*'s Testimony is no way confronted, on any of the Cross-Examinations, and as to the Evidence that was given of her Character by the Witnesses for the Defendant, that did no way affect her so as to render her a bad Witness. For her Evidence is supported by the Testimony of *Dominick Farrell*, of his seeing the Child in the Care of his Mother, before the Separation, he being in the House with her.

My Lords, the Defendant's Evidence is to prove the Child to be *Joan Landy*'s, and not to stick to the Negative Evidence of Lady *Altham*'s not having a Child.

Now, for that Purpose, *William Elms* was produced, who swore that *Joan Landy*'s Child was brought home to *Dunmain*, a Month after the Separation, and swears to him, and that he was about three Years old, and that he was given to the Care of *Black Nell*.

Martin Kenefe swears, that the Child was five or six Years old, when he was brought home.

Rowles swears the same.

Coffee swears, that the Application was made to her by Lord *Altham*, to take home the Child to her House.

Furlong the Fowler and Schoolmaster, and Mr. *Downs* the Priest, they both contradict one the other.

Anthony Dwyer swears, the Child was never in the House for three Quarters of a Year after the Separation.

Aaron Lambert swears the same.

My Lords, let the Gentleman of the other Side say, there was or was not a Child in the House, when it is proved by all the Witnesses examined for the Defendant, except *Lambert* and *Dwyer*. The same serves

my Purpoſe, to ſhew there was a Child there, and we have proved who he was. And, my Lords, we have proved by two Witneſſes produced on behalf of the Plaintiff, that the Child of *Joan Landy* was dead and buried.

My Lords, we have alſo proved by Mr. *Miſſet*, the Care that was taken by Lord *Altham* of the Child, and what Lord *Altham* ſaid of the Child's being Earl of *Angleſey*, and if it was not ſo, what could that Report ſignify? If he was a Baſtard it could avail nothing; if otherwiſe the Converſation was juſt and right; and alſo from what Mrs. *Anneſley* ſwore, that ſhe never heard the Legitimacy of the Child controverted.

But, my Lords, you will pleaſe to obſerve the Teſtimony of *Martin Kneef*, how contradictory it is to the Teſtimony of the other Witneſſes about Lord *Altham*'s giving Directions for the Correcting of the Child, and his Lordſhip's Expreſſions to him about the Child, when his Lordſhip ſaid, that he had too much of the thieving Blood of the *Landy*'s in him. How contradictory is this, my Lords, to the Teſtimony and Declarations of his Lordſhip towards the Child, according to the Evidence of the Plaintiff's Witneſſes!

My Lords, when the Child was brought to *Dublin*, the Treatment he met with there, was on the Account of Miſs *Gregory*, which has been obſerved by the Gentlemen on the ſame Side with me, who ſpoke before me, and as to Alderman *King*, his Evidence is to no purpoſe, in my humble Apprehenſion.

My Lords, I ſhall beg your Lordſhip's Indulgence for a few Minutes more to remind your Lordſhips and the Gentlemen of the Jury, that the Child always repreſented himſelf as the Son of Lord *Altham*, and alſo at the Funeral of his Father, and this met with ſuch Credit, that Mr. *Hawkins* the King at Arms refuſed to inroll the Defendant amongſt the Liſt of Peers, and your Lordſhips and the Gentlemen of the Jury will pleaſe to call to mind the Defendant's Declarations on his Reſentment towards the Child.

And,

And, my Lords, when all the Circumstances of the Plaintiff are joined together, you will think him to be the legitimate Son of Lord *Altham*.

My Lords, there is further the Testimony of Mr. *Bish*, Mr. *Tighe*, Mr. *Plunket* and Mr. *Ash*, who severally prove the Declarations of the Plaintiff Mr. *Annesley*, and the Resentment of the Defendant is plainly shewn from the Transportation. And as to that Point, we have the Testimonies of *Reiley* and *Byrne*, who prove the Defendant, the Earl of *Anglesey*, going along with them for the Transportation.

My Lords, this Action speaks for itself, there is no real Evidence given to the contrary. The evil Mind of the Defendant, and his Attempts against the Plaintiff, must be looked upon by every impartial Man that the Plaintiff was the only Obstacle between the Defendant and the Honours and Estate of the Noble Family, which the Defendant has wrongfully possessed himself of. That the Gentlemen of the Jury will consider this Case merely between the Plaintiff and the Defendant, without Regard to any other Persons whatsoever not now before the Court, and give a Verdict for Mr. *Annesley* the Lessor of the Plaintiff.

Mr. *Walsh* of the Council for the Lessor of the Plaintiff Mr. *Annesley*.

My Lords, and you Gentlemen of the Jury, the Defendant the Earl of *Anglesey*, is Administrator to *Arthur* late Lord *Altham*, and by that Means has got all the Papers in his Hands, which to the Court and Jury would give further Light into this Affair, and all the Evidence given at this Length of Time must be taken strongly on the Part of the Lessor of the Plaintiff; and as these Matters has been so fully spoke to by the Council for the Plaintiff who have spoken before me, I shall not take up much of your Lordship's or the Jury's Time, only I must beg Leave to make some few Observations on the Declarations of the

the Defendant, to shew his Malice and Resentment towards the Lessor of the Plaintiff, and then I shall conclude.

And first then, my Lords, it appears from the Evidence of *Joan Laffan*, that immediately after the Separation, the Defendant went down to the House of *Donnain* in the Absence of the Lord *Altham*, and enquired for *Jenny*, meaning the Lessor of the Plaintiff, ask'd after what Manner his Mother behaved on her parting with him, and whether she was uneasy thereat; that the Witness told him the great Grief she was in, and her earnest Request to his Lordship to let her have her Child. On which the Defendant replied, *God damn him, she should have had him; for that he would not be troubled with any of the Breed.*

Secondly, My Lords, it appears that the late Lord *Altham* and the Defendant, were sometimes in, and sometimes out, and that they would agree now-and-then to raise Money, and the Suspicions that were raised in the Mind of Lord *Altham* from the Inconstancy of his Wife, on the Account of her having a Child before, and the Insinuations of Miss *Gregory*, in whose Possession the Child was in *Dublin*, the Lady *Altham* was parted, and went into *England*, was there very infirm, and in no Hopes of any Reconciliation, or even of her Life, for her Ladyship was in a very bad State of Health. Miss *Gregory* with whom Lord *Altham* liv'd in *Dublin*, took on her the Title of Lady *Altham*, and probably might have had Issue, whom she intended should inherit the Title, Honours and Estate of that noble Family. And Evidence has been given, that it was commonly reported, that Lord *Altham* was married to Miss *Gregory*. Which plainly shews that it was their Inclination to abandon the Child, to turn him adrift in the World, when there was no Person to take Care of him, no Friends or Relations in this Kingdom, but those that were Gaping and Watching for that Title and Honour which must devolve on them,

them, when the only Obſtacle was removed, which was the Child. This is a plain Proof of the Evil and wicked Deſigns of the People concerned in the *Tranſportation*.

Thirdly, my Lords, when Lord *Altham* the Father of the Plaintiff was dead, Mr. *Annesley* did all that was in his Power to let the World know that he was right Heir to that Eſtate, Title, and Honour, by declaring at his Father's Funeral, that he was his Son; on which Mr. *Hawkins* the King at Arms, refuſed Enrolling the Defendant, the preſent Earl of *Angleſey*, amongſt the Liſt of Peers. On which the Defendant uſher'd out his Reſentment, and threaten'd that he would tranſport him for an Upſtart and a Vagabond; and thereupon pretends, that the Child had ſtole a Silver Spoon, apprehends him by Conſtables without any Warrant or Examinations of the Fact, calls to his Aid Emiſſaries for that Purpoſe; cries out, take him away and lodge him in a proper Place; that Attempt failing, he lays wait for him, kidnaps him, puts him into a Coach, goes with him to the Ship, puts him on board, and in this Manner, my Lords and Gentlemen, the innocent Youth was tranſported, and ſold into Slavery, when he was of the Age of thirteen Years. When that was done, in Diſcourſe and in Company, the Defendant openly declared with Raptures of Joy, when the Child was enquired for, and anſwered, *He is gone*. To whom does the Defendant make thoſe Declarations? To Mr. *Aſh*, his own Attorney, and which is not denied by the Defendant, nor did his Council venture to Croſs-Examine him as to that or any other Matter.

Then, my Lords, to prove that the Child was not legitimate, whom does the Defendant produce to that Point, but Mr. *Paliſor* the Younger, who was the Inſtrument and Ruin of that Noble Family, to ſwear that he neither knew, ever heard or ſaw any Child, when Lord *Altham*, full of Reſentment for the Affront offer'd to his Perſon, and Bed, makes at him with a drawn

drawn Sword, and would have run him through, had he not been prevented.

What did Lord *Altham* do? Why, he ordered his Ear to be cut off, and Mr. *Palliſer* ſhewed on the Table here in Court that Mark, which being recorded in a Court of Judicature, muſt have taken away the force of his Evidence, and made him an incompetent Witneſs. So that he now ſtands in a very deſpicable Light before the Court and the Jury on that Head.

What then follows, my Lords; immediately after the Death of *Arthur* late Earl of *Angleſey*, the Defendant poſſeſſing himſelf of that Eſtate, he was attacked on all Sides with Law-Suits for the Eſtate he ſo unjuſtly poſſeſſed himſelf of; and his Deeds flying in his Face, and hearing that the Leſſor of the Plaintiff, Mr. *Anneſley*, was coming over from his Slavery, and would exert his Right. Upon which the Defendant declared he would ſend for him, give him up his Honours, Title and Eſtate, for the Honours he did not value: He would come to an Agreement with *Jemmy* his Brother's Son, if he would allow him Three Thouſand Pounds a Year, then he would go and live in *France*, and when *Jemmy* was in Poſſeſſion of the Eſtate they could not turn him out, he being the lawful Heir; and that then his Diſputes and Law-ſuits would be at an End: He ſhould then be able to live quiet and eaſy, and ſaid he would ſend for a *French* Maſter, to teach him the *French* Language; and the Defendant continued in that Mind until the unfortunate Accident to Mr. *Anneſley* of being charged with ſhooting a Man. Then the Defendant's Heart was up again, and he promiſed Ten Thouſand Pounds to have him hanged.

And to put his Intention in Execution, tho' the Defendant was no way allied or related to the Perſon killed, expended a large Sum of Money, for that End and Purpoſe; and being diſappointed in that Deſign, and to throw Dirt on the Plaintiff, ſets him up as the Baſtard Child of *Joan Landy*, a poor Kitchen Wench, of which he has made no Proof but an imaginary

imaginary one, which is contradicted by all the Evidence for the Plaintiff.

From all which, my Lords, it manifeſtly and inconteſtably appears, that Lord *Altham* had a Child by his Lady, and that in Wedlock, and which we have proved to be the Leſſor of the Plaintiff now in Court, and we inſiſt that it is incumbent on the Defendant to ſhew what became of him.

My Lords, notwithſtanding the glaring Show the Defendant's Council has put on in this Caſe to influence the Jury, who are Men of ſo much Honour, Integrity and Worth as to be above Corruption, and will no Doubt do Juſtice (according to the meer Right, without reſpect of Perſons, or the evil Conſequence that may attend the Determination of this Caſe) in Favour of the Plaintiff, no Perſon is to be hurt but the Defendant now before the Court on this Trial and Defence.

And as he has been the Forerunner and Actor in the unwarrantable Acts of Tranſportation and Proſecution for the Murder, in order to have the Leſſor of the Plaintiff hanged, I ſhall conclude with the Words of the Parable in the Scripture, which the Defendant has taken for his Pattern, *This is the Heir, come let us kill him, that the Inheritance may be ours.* Which the Defendant endeavour'd to accompliſh, but thank God it was prevented, and undoubtedly his evil Deeds will now juſtly fall on himſelf, and he is to anſwer for them, and as ſuch, I hope the Gentlemen of the Jury will give Verdict for the Plaintiff.

The Court then adjourn'd to the next Morning, at Twelve o'Clock.

The Twelfth Day of the TRIAL.

Friday, November 25, 1743.

THE Court having met according to Adjournment, and being ſat, and the Jury called over, they ſeverally appear'd in the Jury Box, and being ſeated together.

The LORD CHIEF BARON's *Charge.*

Gentlemen of the Jury,

THE ſingle Queſtion is, whether the Plaintiff is the lawful Son of the late Lord *Altham*? And the Plaintiff, Gentlemen, in order to prove himſelf to be ſo, has produced the following Witneſſes.

The firſt Witneſs is one Mrs. *Briſcoe*, who to ſhew a Probability of the Lady's having a Child, proves a Reconciliation between her and her Lord.

Next comes Mrs. *Cole*, who ſwears the Lady miſcarried at *Dunmain*.

Catherine Mac Cormick is alſo produced to prove the Miſcarriage.

Then a Number of Witneſſes are produced to ſhew the Pregnancy of the Lady in *Dublin*, and *Alice Bates* is brought to prove the Lord *Altham*'s telling her of his Lady's being with Child.

She alſo gives you her own Obſervations thereon, and informs you of the laying her Hand upon her Belly.

Dennis

Dennis Redmonds, *Thomas Brooks*, and *Philip Breen* are likewiſe produced to prove the Pregnancy.

They next proceed to the actual Delivery.

To prove which they produce two poſitive Witneſſes, *Mary Doyle* and *Eleanor Murphy*.

They likewiſe produce Witneſſes to prove that there were publick Rejoicings on the Occaſion, and *Mary Doyle*, *Eleanor Murphy*, and *Charles Brown* ſwear poſitively to the Chriſtening of the Child.

John Scott tells you, he was ſent divers Times with Meſſages, and that he frequently ſaw the Child.

You'll obſerve, Gentlemen, that they all agree as to the Time when the Child was born in the Month of *May*, 1715.

One *Carty*, is produced to prove the Pregnancy. But his Evidence, Gentlemen, you will find to be of little Uſe, as he differs from the reſt in Point of Time.

Major *Fitzgerald* ſays, that he was invited by Lord *Altham* to tap the Groaning Ale, and that he dined there the Day after the Birth.

The Plaintiff's Evidence go on to ſhew you in what Manner the Child was diſpoſed on, after its Birth: But before one *Furlong* comes, and informs you, that he applied for the nurſing of the Child for his Wife, and gives you an Account of the Converſation he had with Lord and Lady *Altham* on that Subject.

One Fact you'll obſerve, Gentlemen, which all the Witneſſes ſwear to, that is, that *Joan Landy* was with Child at the Reconciliation when my Lord took his Lady Home.

This *Joan Landy*, the Witneſs, was choſen as a Nurſe for the Plaintiff, that at the Time of her being choſen, ſhe lived in a Cabin near the Houſe, which, as ſeveral of the Witneſſes tells you, was beautified, and had Additions made thereto, proper for the Reception of the Child.

Joan Laffan ſays, that when the Child was about Sixteen Months old, ſhe was hired to dry nurſe it at *Dunmain*.

You have likewiſe the Teſtimony of ſeveral Perſons regarding the Speeches made both by Lord and Lady *Altham* relative to the Birth of the Child, particularly Mr. Alderman *Barnes*, whoſe Evidence ſeems very full and very poſitive.

Edward Lutwich informs you, that he ſaw a Child at *Roſs*, whom he was ſent to make Shoes for; which Child he took to be Lord *Altham*'s: And as a further Proof thereof ſwears, that Lady *Altham* ſaid to him, That *ſhe had better have been the worſt Tradeſman's Wife in Town than Lord* Altham's, *for then ſhe could ſee her Son and have him oftner*.

Several Witneſſes are produced, who prove, that his Lordſhip always acknowledged the Child as his own, and introduced him as ſuch to all Company; they have likewiſe produced Evidence to ſhew, that when the Child was at *Kinna* he was not only treated as the Son of a Nobleman, but was alſo dreſs'd like one.

Among other Witneſſes to prove this, is *Laurence Miſſet*, Gentleman; alſo Mrs. *Anneſley* informs you that her Brother drank his Lordſhip's Son's Health, and that his Lordſhip thank'd him.

They produce likewiſe the two *Cavenagh*'s and *Charles Byrne*, and ſeveral other Witneſſes, who ſwear, that at *Carrickduff* the Child was by every Body look'd upon and received as his Lordſhip's lawful Son.

The Child is from thence traced to *Croſs Lane*, and there proved to be the ſame identical lawful Son by *Catharine O Neil*, *Michael Duff*, and others.

From thence he is moved to *Proper-Lane*, and is put to School to one *Carty*, and there received and reputed to be the lawful Son of Lord *Altham*, as is ſworn to by the two *Byrnes*, *Plunket* and others.

About this Time you'll obſerve, Gentlemen of the Jury, that one Miſs *Gregory* was taken into Favour

by

by his Lordſhip, and through her Means the Plaintiff was turn'd off.

He was ſent to Board to one *Cooper*'s, who put him to School to one *Dunn*; but not being treated ſo well here as he expected, he went to the College, where he was entertained as a menial Servant by Mr. *Buſbe*.

The next Account given of him by the Evidence, is his being entertained by one *Farrel*, and by him recommended to *Purcell*, the Butcher; both of whom underſtand him to be the lawful Son of Lord *Altham*.

After being entertained ſome Time by *Purcell*, he leaves him abruptly, and goes to Mr. *Tighe*'s.

The Occaſion of which, as related by *Purcell*, is the Perſecution of his Uncle the Defendant.

He proceeded to give you a full Account of the Defendant's coming to his Houſe before the Death of Lord *Altham*, and alſo an Account of what happen'd after his Death.

You have next, Gentlemen, an Account of the Boy's being ſpirited away confirm'd by the Evidence of *Mark Byrne*, *Reily* and others, and the Books of *Stephenſon* are produced by *Cremie*, to ſhew that the Boy was actually put aboard the Ship, and did actually ſail with that Ship.

And he tells us, that on being queſtioned thereto, that a Perſon might be forc'd abroad againſt his Conſent. He is entered in the Books of *Stephenſon* by the Name of *James Anneſley*, tho' the Entry made in the Town-Book is *James Henneſley*.

You'll obſerve, Gentlemen, that the Town-Clerk is living who made the Entry, tho' he is not produced.

The Evidence for the Plaintiff do not give any further Account of him 'till his accidentally being found out in *Virginia*, his being recommended to Admiral *Vernon*, and by him ſent to *England*; ſome Time after his being in *England*, he had the Misfortune to kill a Man.

You have then one *Giffard*, an Attorney, produced

to

to you, as an Evidence in Behalf of the Plaintiff, who informs you of several Converſations with the Earl of *Anglesey*, the Defendant; in one of which that Witneſs ſwears the Defendant ſaid, he would ſurrender up his Right and Title to the *Angleſey* and other Eſtates to the Plaintiff, Mr. *Anneſley*, if he would only give him 3000 *l.* a Year, and he would retire to *France*, for that he would rather his Brother's Son ſhould have it than any of the *Anneſley's*, for *Jemmy's* Title could not be diſputed, and purſuant to this Declaration, the Defendant hired a Maſter to teach him the *French* Language.

But the unfortunate Accident of the Plaintiff's killing a Man, happening at this Time, the Defendant changed his Reſolution, and employed the Witneſs to proſecute the Plaintiff with the utmoſt Rigour, and regarded no Expences; but to get him hanged if poſſible, for that then he ſhould enjoy the Eſtate and Title quietly.

This, Gentlemen, is the Sum and Subſtance of the Evidence given by this Witneſs, it appears to be full and ſtrong, you are to conſider, Gentlemen, whether the Words ſpoke by the Defendant were not the Effect of Heat and Paſſion, and being diſtreſs'd in his Circumſtances.

You are to obſerve too, Gentlemen, that there has been no Imputation thereon on the Character of the Evidence regarding this Fact, more than his betraying private Converſation, and his giving Evidence againſt a Client.

You will alſo conſider from what has appeared before you, whether there has happened any Thing that would influence him to commit Perjury. But if you believe, that the Defendant ſpirited away the Boy at will Strength to their Declarations.

You have likewiſe another Attorney produced as an Evidence for the Plaintiff, one *Shelcroſs Aſh*, who informs you, that he was in Company with the Defendant when a Gentleman came in, and ſaid that a Boy at the Funeral of Lord *Altham* had made a very great

great Noise, and called himself the Son of the deceased and that the King at Arms refused to enrol the Defendant in the List of Peers on that Account, and that his Lordship was very angry thereat, and said there were Ways and Means to get rid of the Boy; and that about a Year after, this Witness having some Discourse about the Boy with his Lordship, the Defendant told him he was gone.

This, Gentlemen, is the Evidence given in Behalf of the Plaintiff, and you are to consider whether the committing an unlawful Act of spiriting away or transporting a Boy against his Consent, carries any Weight; if it does, you are to consider within yourselves what could be the Inducement to commit that Act, and if you believe that the Act was committed, you will judge accordingly.

I shall now proceed to give you the Evidence on the Behalf of the Defendant, and then leave it to your Determinations.

Gentlemen of the Jury,

The Defendant has called a Number of Witnesses who resided in the Country during the whole Time of Lord and Lady *Altham*'s being there, to prove that they never heard of, or saw a Child of theirs.

Colonel *Loftus* and many others have been produced for that Purpose, and have each of them sworn, that they never saw or heard of such Child.

The Defendant has likewise produced the Servants living there at the Time the Child was said to be born, who all agree that there was a Child of *Joan Landy*'s born there, but not of the Lady *Altham*'s.

The Fact of Lord and Lady *Altham*'s going to *Wexford*, and afterwards to *Dublin*, does not appear to be strongly supported.

I cannot therefore lay any great Stress there, for *Kerr*, one of the Evidences they produce, himself says, that he does not remember any Ladies there: And *Turner* and *Higginson* swear positively that the Lord and Lady *Altham* were not there.

There

There have been several Objections made to the Witnesses not speaking circumstantially, I look upon the Objection to be equal on both Sides, and the Meanness of the Persons is no Objection at all; for the Persons produced speak only to a single Fact, which may be put into the Mouth of any Person.

You'll take Notice, Gentlemen, of the Opposition between Mrs. *Cole*, and Miss *Briscoe*, and Mrs. *Heath*, about their going to lodge at *Vice*'s.

Also the Difference between Mrs. *Cole* and Mrs. *Heath* regarding the Miscarriage.

Mrs. *Heath* likewise stands opposed by *Hussey*, who swears he knew Nothing of his being called upon to be an Evidence, tho' it was intended so all along.

Ralph, who is prov'd by *John Scot* to be the Butler, at first seem'd very consistent in his Evidence, but on his Cross Examination seem'd very contrary; said he had Discourse with Forty, but could not name one, and his Evidence concerning *Mac Kircher* is highly improbable.

Anthony Dwyer's Evidence is contradicted about the Child's being in the House, tho' the Characters of *Eleanor Murphy* and *Mary Doyle* appear untouched, and their Evidence was consistent.

'Tis an Observation has been made of the Evidence on both Sides that they appeared too forward.

Gentlemen of the Jury, you'll please to observe that there appears a little Inconsistency in the Evidence given for the Defendant, they somehow discredit each other, for some of them swear that Lord *Altham* said he would not for 500 *l.* that the Boy should know that *Joan Landy* was his Mother; and others swear, that my Lord often told the Boy that he had too much of the *Landy*'s Blood in him. This Gentlemen, is a very material Point, and deserves your Consideration.

Mrs. *Mac Mullen* swears, that the Boy told her he was *Joan Landy*'s Son, but she stands contradicted by Mr. *Bush*.

Where there is Contrariety of Evidence, Presumptions are to be taken in. The Presumptions in Favour of the Plaintiff on the Spiriting of the Boy away, and the

Prosecution

Proſecution. The Preſumptions in Favour of the Defendant, are, that by the Circumſtances of the Family this Event muſt have been notorious.

There is an Improbability attending the Lady's being attended in the Manner ſhe was at the Birth of the Child. The Nurſing of the Child. The Place it was taken to. The Lady's not having made Mention of it to the Duke of *Buckingham*, or in the ſeveral Places the Lady went to.

An Improbability has been urged from the turning away this Boy. You will conſider how far that is taken away by the Influence of Miſs *Gregory*, and the Inhumanity of turning away a Baſtard Son.

Catharine O Neil ſays, that the Lady was told of the Condition of the Child, and her not enquiring after it, is a Preſumption that this was not a legitimate Child; and there ariſes a ſtrong Preſumption from the Mother's Surviving, and taking no Care, or making any Enquiry about him.

She was ſupported upon Charity, and yet ſhe ſuffered the Eſtate to go to the Earl of *Angleſey*. Alderman *King*'s Evidence is as to this improbable.

As to the Opinion of the late Lord *Altham*, touching its being an Advantage to have a Son, there cannot much be inferr'd from that, he having afterwards made his Brother join with him.

You are to conſider that many Perſons, beſides the Defendant, are to be affected as to the Verdict, and it is hard that other Perſons ſhould be affected by any improper Acts of the Defendant.

Mr. Baron *Mountney*. Gentlemen of the Jury, my Lord Chief Baron has ſumm'd up the Evidence on both Sides, and ſtated the Affair in ſo judicious and maſterly a Manner, that I ſhall only make ſome general Obſervations on the Cloſe of the Plaintiff's and Defendant's Evidence, and ſhall begin with Mr. *Giffard*'s Teſtimony.

He mentioned at large to you, the Converſations he had with Lord *Angleſey* (the preſent Defendant) in

one of which Converſations my Lord declared he ſhould be glad to ſend for his Nephew *Jemmy Anneſley* (his Brother's Son) to enjoy his Honours and Eſtate, and if he would allow him 3000*l.* a Year, he would go to *France*, for it was his Right, and my Lord would ſurrender it up to him. You'l obſerve, Gentlemen, the Counſel for the Defendant evaded the Queſtion, and endeavoured to excuſe it as a ſudden haſty Expreſſion: But that cou'd not not be the Caſe; for by the Account *Giffard* gives you, it was not the Effect of Paſſion, becauſe Lord *Angleſey* often made uſe of that Declaration, and, in purſuance of the Reſolution, ſent for *Stephens Hays* to inſtruct him in the *French* Language, in order to go to *France*; therefore it was not a precipitate Reſolution; and his declaring his Inclination to accept 3000*l.* a Year, is a plain Indication that he did not believe the Leſſor of the Plaintiff was the natural Son of the late Lord *Altham*. But, Gentlemen, when he proſecuted the Defendant at the *Old Baily* with the utmoſt Rigour, as the Witneſs mentioned, he could not then have any Excuſe that he was induced to it by the Diſpute with the *Anneſleys*; therefore you are to conſider, whether the Defendant was not in this Affair actuated by other Motives, than thoſe of publick Juſtice.

The Impatience which the Defendant ſhewed, in going to *Hounſlow* to meet Mr. *Giffard*, and his Declaration of ſpending 10000*l.* ſo he could hang the Leſſor of the Plaintiff, will have a Weight, and will help to ſhew the Motives of the Defendant, *& quo animo* he imbarked ſo ſtrongly in this Affair. And another Circumſtance ſtrengthens the Teſtimony of *Giffard*, that is, that the Defendant told *Giffard* that the Plaintiff was tranſported for ſtealing a Silver Spoon; this compared with the Teſtimony of *Purcell*, and ſome others of the Plaintiff's Witneſſes, ſhews a Conſiſtency which muſt add to their Credit.

And, Gentlemen, you'l conſider what Weight it is to have, that the Defendant offered no Evidence to diſcredit *Giffard*, but by croſs-examining him, and by the Arguments made uſe of, with regard to the diſcloſing the Secrets of his Client; but in my Opinion, Gentlemen,

men, Mr. *Giffard* could not justify himself to God or Man unless he did disclose it; besides Lord *Anglesey* mentioned it to him in a Cause not relative to the Matter in Question; and this has been extremely well discussed by Counsel on both Sides, which, Gentlemen, you must remember.

The Evidence of *Shelcross Ash* is very strong, that the Defendant spirited away the Lessor of the Plaintiff; and in my humble Opinion, it shews the Defendant was fully conscious of his Title.

The Defendant's Witnesses have sworn, that Lady *Altham* never had a Child, nor was with Child, but that Lord *Altham* had a Son by *Joan Landy*. But 'tis natural to enquire why Lord *Anglesey* should be so solicitous about *Joan Landy*'s Son: What could Lord *Anglesey* fear from a Son who was without dispute a Bastard?

Gentlemen, the present Question is, Whether the Lessor of the Plaintiff was the Legitimate Son of the late Lord *Altham*, and how far it may be proper for you to draw Inferences from the Conduct of the Defendant, to determine your Judgments in this Particular. Sometimes the Law admits of violent Presumptions to be full Proofs; for Instance, if a Man happened to be murder'd in a House, and a Man is seen with a bloody Sword coming out of that House, there Presumption is to take Place, and will have the Force of positive Evidence.

The Jury are properly to consider those iniquitous Acts, and whether they do not bring the Defendant within the Case of Spoliation, and how every thing is to be presumed against the Spoilator.—I remember, I heard my Lord *Talbot* (who was one of the greatest Men that ever sat upon the Bench) assert, that strong Circumstances were more convincing than any other Evidence; and that Presumptions arising from Facts, speak stronger than Witnesses can do.

Gentlemen, you'l consider the Difficulties the Lessor of the Plaintiff labours under, from not having an Opportunity of claiming his Right earlier; for if he had asserted his Title fifteen Years ago, then he

might have had the Benefit of the Sponsors, who were probably, all then living, and who might have cleared up this Matter; but now, being dead, he is laid under great Hardships.

But when violent Presumptions operate strongly in the Plaintiff's Favour, as in the present Case, they must be supposed to operate strongly for him, and point out where to apply the Probability, and Improbability.

A wicked Act, in general, should not be considered by the Jury; but when an evil Act, relative to the Point in dispute, explained by the wicked Declarations of the Party, of spending 10,000 *l.* (as *Giffard* mentioned) is laid before you, this must have great Influence.

The Gentlemen for the Defendant have said, it was not probable that the Defendant would be so weak, as to make the Declarations given in Evidence on this Trial; but they will please to observe, that Weakness and Wickedness are generally attendant on each other; it often happens, that *quos Deus vult perdere prius dementat*.

I shall, Gentlemen, mention some few more Observations, which I think proper for your Considerations.

I must first mention to you, that Mrs. *Giffard* stands confronted by Mr. *Colclough*, Mr. *Turner*, and Mr. *Higginson*: And, Gentlemen, you are to consider which of them deserves to be credited.

Mrs. *Heath* contradicts Mrs. *Briscoe* and Mrs. *Cole*, that Lord *Altham* did not go to *Vice*'s to lodge before he went to *Dunmain*.

Mrs. *Cole* mentioned to you last *Tuesday* (when she was on the Table) that the Reason of Lord and Lady *Altham*'s going to another Place to lodge from her Father's (before they went to *Dunmain*) was, that it might be more notorious that they were reconciled; you will weigh how far this Reason is probable, and you'll observe that Mrs. *Briscoe* swears that she, with all the rest of the Family, were desired to see Lord and Lady *Altham*

Alsom in Bed at her Father's Houſe, that it might be known they were reconciled.

It was inſiſted on, to overturn Mrs. *Cole*'s Teſtimony about the Miſcarriage, that it was improbable that a Child of that Age ſhould know a Miſcarriage, or that her Mother ſhould ſhew the Abortion to her. You will conſider, Gentlemen, whether it was not as improbable for the Parents to call a Child of tender Years to ſee them in Bed, as it was to ſhew her the Abortion.

Some Streſs has been laid on the Evidence of Mr. *Pulliſer* the younger, who mentioned the Converſation Lord *Altham* had with him three or four Days before the Separation: wherein his Lordſhip ſaid, that the late Lord *Angleſey* would not be in Friendſhip with him whilſt he lived with his Lady, and ſince he had no Child by her he would part with her. —— Here the chief Reaſon of putting her away, was the Pretence of her not having a Child. You will weigh within yourſelves, Gentlemen, whether he that would turn away his Wife to oblige Lord *Angleſey*, would not turn a Legitimate Son away upon a trifling Occaſion: and it appears on the Croſs-examination of *Herd*, a Witneſs for the Defendant, that the late Lord *Altham* would do any thing to pleaſe Miſs *Gregory*, and that ſhe was not very fond of the Child: And it has been ſworn by the Plaintiff's Evidence, that Complaints have been made by Miſs *Gregory* to Lord *Altham* about the Child. You'l conſider, Gentlemen, with what Severity Lord *Altham* corrected the Child, for the ſuppoſed Crime of ſtealing a Jockey Belt, and that *Herd* ſaid, that Lord *Altham* would not for 500 *l.* that the Child ſhould know that *Landy* was his Mother; the Defendant's other Witneſſes contradict him in this Particular

Heath goes along with *M'Cormick* about the *Noiſe of a Chair*, and *calling for Lucas the Midwife*, but differs from her as *to the Fright* and *Miſcarriage* of my Lady; and *Heath* alſo agrees with Mrs. *Cole* about the *China Saucers being thrown*, but differs from her about the *Miſcarriage*,

Miscarriage, and my Lady's keeping her Bed afterwards.

Lambert, in his Testimony mentions, that he was in Company when *Sutton* the Surgeon was sent for to go to my Lady, and that *Sutton* did not go on the first Message, but went some time afterwards, and attended my Lady for about a Fortnight: This seems, from the Testimony of *Lambert*, to be pretty much near the Time alledged for the Miscarriage, and is attended with a strong Presumption to strengthen the Testimony of Mrs. *Cole*, and to induce a Belief that Lady *Altham* was indispos'd for some time; but *Heath*, Gentlemen, as has been mentioned, said, she knew no Indisposition of Lady *Altham*'s that should occasion *Sutton* to attend her for a Fortnight. 'Tis material farther to compare the sedate Behaviour of Mrs. *Cole*, in giving her Testimony on the Table, to the vociferous Behaviour of Mrs. *Heath*.

Gentlemen, when you consider how long Lady *Altham* lived after the Death of Lord *Altham*, and did not take care of the Child (as appears from the Defendant's Evidences) you will take into your Thoughts that the Boy was sent away very soon after the Death of Lord *Altham*; for his Lordship died in *November* 1727, and the Ship wherein the Boy sailed for the Plantations, went over the Bar of *Dublin* the 30th of *April*, 1728, and there may be a strong Presumption that Lady *Altham* might think the Child was dead.

Gentlemen, you'l take notice whether it was not as little likely, that Lady *Altham*, who was said to be a haughty Woman, should visit in an Ale-house or Inn in *Ross* (as *M'Mullen* swore) as that she should admit *Bates* to make use of the Freedoms mentioned in her Testimony.

And when you come to observe what was urged, with respect to Lady *Altham*'s not making mention of her Child to Alderman *King* whilst she lodged in his House, it will be proper for you to consider, that Lady *Altham* might not choose to talk of any

Child, in regard it was reported ſhe had a Child in *Holland.*

Mrs. *Anneſley*'s Evidence I take to have great weight, as ſhe ſays ſhe never doubted but the Child was Lord *Altham*'s lawful Son, and that her Brother would not toaſt the Health of the Child if he had been a Baſtard.

Theſe Facts, Gentlemen, appear to be the Capital Parts of the Plaintiff's Caſe; and if you believe the Boy was ſpirited away by the Defendant, and the Teſtimony with reſpect to the Proſecution, it muſt have great Weight, and influence you to be of Opinion, that the Defendant's Witneſſes do not ſtand in equilibrio to the Plaintiff's Proofs, and that therefore the Plaintiff is entitled to a Verdict.

Mr. Baron *Dawſon.* Gentlemen of the Jury, as this Caſe has been ſo well ſpoke to already on all Sides, I ſhall only mention a Word or two with reſpect to it.

I muſt own the Witneſſes contradict one another ſo very much, that one can't tell where to ſet his Foot with Certainty; I would, if I was on the Jury (and I have no Doubt but you have made it a Rule for your Government;) I would, I ſay, conſider the Story as related by both Parties, and weigh it as to the Probability.

This Trial has laſted twelve Days: Trials at Barr have been generally determined in one Day or two, and the Policy of the Law ſo requires it; but as this has admitted of Adjournment, perhaps ſomething might be ſaid out of Court in Relation to this Cauſe, but nothing of that Kind is to govern your Opinions.

Gentlemen, you have ſeen how the Witneſſes for the Plaintiff and Defendant ſwear *pro* and *con*, with reſpect to the Birth of the Child. In this Uncertainty, the Reputation of the Country is very proper for your Direction; and you are to conſider, whether a Fact of that Conſequence could have happened unknown to

Perſons

Persons who visited the Lord and Lady *Altham*, and how it can happen that the Birth of a Child of so noble a Family, and so high Rank and Quality, should not be known by Persons in the Neighbourhood: What Reason could there be that such an Affair should be kept a Secret, where so many People were to be affected? The Plaintiff's Witnesses indeed swear, there was Joy and Bonfires on the Occasion, and yet no Gentleman of that Country is produced who had any Knowledge thereof.

Laffan, Gentlemen, swears positively that the Child was shewn to Mrs. *Lambert*, and others, when my Lord and Lady *Altham* lived at *Dunmain*; but Mrs. *Lambert* swears quite the contrary, that she never saw a Child at *Dunmain*, and that there never was any Child shewn to her there in my Lady's Time.

You'll consider likewise, Gentlemen, whether it is probable that a Lady of her Rank should lye in, in the Country; for Persons of Distinction generally choose to go to Town to be Brought-to-bed, where the requisite Preparations for such an Occasion, and for a Lady of her Quality in such a Condition, might not be wanting.

Gentlemen, you have seen the Servants of the House, who are Witnesses for the Defendant, what Testimonies they have given; they say that Lady *Altham* never had a Child. You see how the Witnesses on both Sides disagree, as to the manner of Lord *Altham*'s Treatment of the Child; the Defendant's Witnesses say, he always considered him as his Bastard Son; the Witnesses for the Plaintiff say, he always treated him as his legitimate Son; you are to consider where the Probability lies.

It has appear'd to you, Gentlemen, that Lord *Altham* was a Man of a very variable Disposition, and you are to observe, whether there may not be some Reason for treating an illegitimate Son as a legitimate Son;

Son; but there can be no Reason for treating a legitimate Son as illegitimate.

Treating the Child as a legitimate Son in strange Company, tho' he should be illegitimate, may be accounted for; because Lord *Altham* might not care to let it be known, that he had an illegitimate Child; but what Reason can be offer'd for treating his legitimate Son as a Bastard?

Supposing the Case to be, that Miss *Gregory* should have an Influence over Lord *Altham*, as the Plaintiff's Evidence say; yet, Gentlemen, you'll take it into your Consideration, whether Lord *Altham* could be so abandon'd to common Sense and Nature, as to treat a Child as illegitimate, if he was his lawful Son and Heir.

Besides, Gentlemen, the Tenderness of a Mother cannot be got over, and Lady *Altham* lived at *Ross* a very long Time after the Separation, yet it never appear'd the Child visited her, except by the Testimony of *Laffan* and *Lutwich*. When you come to consider this Part, take all these Things into your Thoughts, as likewise the Evidence of *Catharine O Neil*, who tells you, that her Ladyship should be desirous to see the Child, only for Fear it might be a Means to make the Servants lose their Places.

I apprehend it somewhat odd, that Lady *Altham* should keep it a Secret from Alderman *King*, with whom she lodged so long, that she had a Child, and yet intimate it to Mrs. *Hodges* (who was a Stranger) at the first Visit.

No doubt but Lady *Altham* was acquainted with the Death of Lord *Altham*; how came it, that she did not make Enquiry about the Child, when in this Case both her Interest and Affection were join'd?

As to the Transportation and Prosecution, you will consider, if the Defendant was the Cause of it, and if he was, how far it had Effect? and if Lord *Altham* acknowledg'd constantly the Child as his natural Son, how far the Acts of Transportation and Prosecution can better the Plaintiff's Cause; and if they are true, as given in Evidence by the Plaintiff, they were certainly very

wicked Acts; but, Gentlemen, it is hard to conclude, that tho' the Defendant ſhould be guilty of a wicked Act, therefore a Man is to believe Evidence againſt him in another Reſpect, if it appears improbable.

Mr. *Napper* tells you, he had a Letter of Attorney from the late Earl of *Angleſey*, after the Death of the late Lord *Altham*, to ſettle ſome of the Eſtate in *Roſs*, yet no Objections were made to the Title; and it ſeems ſomewhat extraordinary, that if Lord *Altham* had a Child, that the Tenants would have accepted of Leaſes, or that ſome of them would not object to attorn to the Lord *Angleſey*, or that ſome one or other would not have objected that there was a Son, when the Exiſtence of ſuch a Son would plainly defeat Lord *Angleſey*'s Title. I ſhall obſerve to you, Gentlemen, on the whole, that in the Light this Caſe appears to me, the Plaintiff has not produced ſuch Evidence as can, in my Opinion, ſupport the Point contended for by him,

Then Mr. Caldwell, *Attorney for the Plaintiff, deliver'd to the Jury the Iſſue which they were to try. Afterwards the Jury withdrew into the Jury-Room, and in about two Hours Time they brought in their Verdict.*

Clerk of the Pleas. Cryer, make Proclamation.

Cryer. Hear ye, hear ye, *&c.*

Clerk of the Pleas. Gentlemen, which do you find, for the Plaintiff or the Defendant?

Sir Thomas Taylor, *Foreman.* We find for the Plaintiff, with 6*d.* Damages, and 6*d.* Coſts.

Council for the Plaintiff. My Lords, I pray Judgment on Behalf of the Plaintiff, on reading this Verdict, and that it may be recorded.

Clerk of the Pleas reads the Verdict.

Mr. Lee, *of Council for the Defendant.* My Lords, I hope your Lordſhips will not now give Judgment, for I humbly conceive the Plaintiff's Declaration is bad, and that

that he can't have Judgment [and he offer'd some Matter in Law in Arrest of the Judgment].

Court. Gentlemen, we will adjourn to Nine o'Clock To-morrow Morning.

The Cryer accordingly adjourns the Court.

Saturday Morning.

Council for the Plaintiff. My Lords, we pray Judgment in Behalf of the Plaintiff on this Verdict.

Court. Take Judgment.

Council for the Defendant. I pray this Writ of Error may be receiv'd.

Court. Allow the Writ of Error.

HAving now performed my Promise of giving the Publick this most extraordinary Trial at Length (a Trial which the Annals of past Ages cannot, or future probably never will, parallel): I think myself obliged, out of my Regard to Justice, and to wipe off any Aspersions that may still remain with some to the Character of the young Gentleman, to relate some of the touching Methods that were put in Practice to destroy him after his Return from Slavery in *America* (where he underwent such Cruelties and Hardships that alone would fill a Volume, and which are impossible to be brought within the Compass of this Work) and to give some other Particulars, which, I hope, will be agreeable to our Readers.

Whilst poor Mr. *Annesley* was deploring his Misfortunes, and sighing for Liberty, let us see what Turn the Affairs of his Uncle took in the mean Time.

The Barony of *Altham* was not more easily assumed than quietly enjoyed, Murmurs began to subside, and all but the Consciences of the Guilty had lost the Memory of the Fact; when a new Event produced another re-

markable Alteration in the Family. On the 31ſt of *March* 1737 died *Arthur*, Earl of *Angleſey*, one of the greateſt Men of his Age, who had diſtinguiſhed himſelf by his Eloquence in both Houſes of Parliament, and in the Parliaments of both Kingdoms, but much more by his conſtant Adherence to the true Intereſt of his Country. The latter Part of his Life indeed he had ſpent in Retirement, which I take to be the Reaſon why his Death did not appear ſo great a Loſs as it really was. Upon this, *Richard*, Lord *Altham*, of the Kingdom of *Ireland*, aſſumed the Title of *Angleſey*, to which, if his Brother *Arthur* left no Iſſue, he had undoubtedly a Right, and very ſoon after, his Lordſhip came over hither, and enter'd upon it fully, notwithſtanding ſome Family Diſputes, which is not ſo proper to mention in this Place; yet after ſome Time, even theſe were adjuſted, and the Sky appear'd quite clear.

But as Calms are frequently followed by Storms; ſo when the unfortunate Exile was in a Manner wholly forgotten, he made his Eſcape, and very fortunately for him came to *Jamaica*, from whence he was ſent Home by Admiral *Vernon*. His Arrival and his Claim made a very great Noiſe, and was very publickly taken Notice of, notwithſtanding the Danger that attended the publiſhing any Thing, to the Prejudice of a Perſon in ſo high Rank. The Earl was not regardleſs of his Danger; on the contrary, he took all the Advantages that naturally aroſe from the young Man's ſetting up this Claim in *England*, where the People were not acquainted either with his Perſon or his Misfortunes, and therefore treated him as a bold and impudent Pretender, and as I have been informed, actually prepared a Petition to a certain auguſt Aſſembly againſt Mr. *Anneſley*, for preſuming to call himſelf the Son of his Father, though for certain Reaſons, that at this Time I cannot conveniently mention, it was not preſented.

How diſtreſſed ſoever Mr. *Anneſley* might be, and how uncertain ſoever the Event of his Claim, yet he was far from wanting Support. Curioſity drew ſome to enquire into his Affair, and upon an Enquiry there was ſo ſtrong

an

an Appearance of Truth found in his Story, that they could not bear the Thoughts of letting him sink for want of Support, notwithstanding the visible Disadvantages his Cause labour'd under. A Thing of this nature required much Consideration, and in the mean Time it was thought proper, that the young Gentleman should pass a Part of his Time in the Country. Here it was that a most unlucky Accident fell out, which seem'd to threaten him with even greater Mischiefs, than any that had hitherto befallen him. The Place of his Retreat was *Egham*, a pleasant Village on the Edge of the County of *Surry*, where going abroad one Day with *Joseph Redding* who is Game-keeper to Sir *John Dalben* of *Finden* in *Northamptonshire*, they saw two Poachers, when going to take away the Net from one of them, a Gun which he held in his Hand unfortunately went off, and shot the Man dead.

Depositions were immediately made before a Magistrate, the material of which were by the Son of the Deceased, and he not pretending to accuse *Mr. Annesley* of any Malice, or even Design in the Affair; none had any Notion of his being in Danger. In all such Cases however, the Law appoints a Tryal, and Sir *Thomas Reynel* was obliged to send him under a Guard to a Place of Confinement, where he was to remain in Prison till the Time of Hearing should arrive.

This was gladsome News to his Uncle; he doubted not but he should now be able to order Matters so, as to put an End to his Nephew's Competitorship, by the most shameful of all Kinds of Death. So much did he exult, so much did he imagine himself the Minion of Fortune, that it was not in his Power to conceal his Satisfaction, or set Bounds to it. He could not content himself in this Degree of Wantonness, without feasting his cruel Eyes with the Pleasure of seeing his Nephew try'd.

This Affair having engrossed the Attention of the whole Town, a prodigious Concourse of People came to hear the Event; the Particulars of which I need not in

in this Place relate, as it will be in the following Pages, only ſay that he was found Guilty of Chance-Medley, and not of Murder.

Mad with Rage at this Diſappointment was his cruel Uncle, and impatient to vent the Malignity of his Soul he ran out of Court; a continual Volley of Hiſſes and Curſes followed him from every one 'till he was out of Sight.

He immediately drove Home, having received ſuch Treatment from the Populace, that he began to exerciſe his Rage upon his poor Domeſticks.

The Hardſhips and Sufferings that this young Gentleman, Mr. *Anneſley*, underwent, during the Time of his Tranſportation Abroad, are ſo many and various, and were of ſo long Continuance, that they would ſwell this Volume to too great a Thickneſs to be bound up with this; therefore it will be printed by itſelf, and will make a neat Pocket Volume in twelve Numbers, and will be done in the Manner of a Novel.

THE

THE TRIAL OF *James Anneſley* AND *Joſeph Redding*,

At the Seſſions-Houſe in the *Old-Bailey*, on *Thurſday*, *July* 15, 1742, for the Murder of THOMAS EGGLESTONE.

ON *Friday* the 4th Day of *June* 1742, Mr. *Anneſley* (being brought up by the Keeper of *New-Priſon*) and *Joſeph Redding* (having ſurrendered himſelf to take his Trial, purſuant to Notice given to the Proſecutor's Sollicitor) were, upon Application to the Court, in Reſpect of the Quality claimed by Mr. *Anneſley*, ſet within the Bar.

Proclamation being made for Silence.

Clerk

Clerk of the Arraigns. *James Annesley*, hold up your Hand; (which he did) *Joseph Redding*, hold up your Hand; (which he did.)

You stand indicted in the County of *Middlesex*, by the Names of *James Annesley*, late of *Staines*, in the County of *Middlesex*, Labourer, and *Joseph Redding*, late of the same, Labourer: For that you not having God before your Eyes, but being moved and seduced by the Instigation of the Devil, on the first Day of *May*, in the 17th Year of his present Majesty's Reign, with Force and Arms, at the Parish aforesaid, in the County aforesaid, in, and upon, one *Thomas Eggleston*, in the Peace of God, and our said Lord the King, then and there being, feloniously, wilfully, and of your Malice aforethought, did make an Assault; and that you the said *James Annesley*, with a certain Gun of the Value of 5 s. then and there, being charged with Powder and leaden Shot, which Gun you the said *James*, then and there had and held in both your Hands to and against the said *Thomas Eggleston*, then and there, feloniously, wilfully, and of your Malice aforethought, did discharge and shoot off to you, the said *James Annesley*, then and there, well-knowing the said Gun to have been charged as aforesaid; and you, the said *James Annesley*, with the leaden Shot aforesaid, then and there discharged and shot out of the said Gun, by Force of the Gunpowder as aforesaid, him the said *Thomas Eggleston*, in and upon the left Side of the Belly of the said *Thomas*, then and there, feloniously, wilfully, and of your Malice aforethought, did strike and penetrate, giving to him the said *Thomas Eggleston*, then and there, with the said leaden Shot so as aforesaid discharged and shot, in and upon the left Side of the Belly of the said *Thomas Eggleston*, one mortal Wound, of the Breadth of one Inch, and of the Depth of four Inches, of which said mortal Wound the aforesaid *Thomas Eggleston* then and there instantly died: And that you the said *Joseph Redding*, at the Time of committing of the Felony and Murder aforesaid, feloniously, wilfully, and of your Malice aforethought, was present, aiding, abetting, assisting, comforting, and maintaining the said *James Annesley* to kill and murder the aforesaid *Thomas Eggleston* in Form aforesaid; And so you the said *James Annesley* and *Joseph*

Joseph Redding, him the aforesaid *Thomas Eggleſtone* in Manner and Form aforesaid, feloniously, wilfully, and of your Malice aforethought, did kill and murder, against the Peace of our Lord the King, his Crown and Dignity.

How say you, *James Annesley*, are you guilty of this Felony and Murder whereof you stand indicted, or not guilty?

Mr. *Annesley*. My Lord, I observe that I am indicted by the Name of *James Annesley*, Labourer, the lowest Addition my Enemies could possibly make use of; but tho' I claim to be Earl of *Angleſey*, and a Peer of this Realm, I submit to plead not guilty to this Indictment, and put myself immediately upon my Country, conscious of my own Innocence, and impatient to be acquitted even of the Imputation of a Crime so unbecoming the Dignity I claim.

Cl. of the Arraigns. How say you *Joseph Redding*, are you guilty of this Felony and Murder whereof you stand indicted or not guilty?

Joseph Redding. Not guilty.

Cl. of the Arraigns. Culprit. How will you be tried?

J. Redding. By God and my Country.

Cl. of the Arraigns. *James Annesley*, hold up your Hand.

J. Redding, hold up your Hand; you stand likewise charged upon the Coroner's Inquisition by the Names of *James Annesley*, late of the Parish of *Staines* in the County of *Middlesex*, Gent. and *Joseph Redding* of the Parish and County aforesaid, Yeoman; for that you on the first Day of *May* in the Year aforesaid, God not having before your Eyes, but being moved and seduced by the Instigation of the Devil, with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon *Thomas Eggleſtone* in the Peace of God and our said Lord the King, then and there being, feloniously, wilfully, and of your Malice aforethought, did make an Assault; and that you the said *James Annesley*, a certain Gun of the Value of 5*s*. then and there charged with Gunpowder and small Leaden Shot, at and against the aforesaid *Thomas Eggleſtone*, feloniously, wilfully and of your Malice aforethought, did discharge and shoot off,

and him the ſaid *Thomas Eggleſtone* with the ſaid ſmall Leaden Shot out of the ſaid Gun, by Force of the ſaid Gunpowder diſcharged as aforeſaid, in and upon the left Side of the Belly of him the ſaid *Thomas Eggleſtone*, near the Hip-bone, then and there felonioufly, willfully, and of your Malice aforethought, did ſtrike, giving unto him the ſaid *Thomas Eggleſtone*, then and there, with the ſmall Shot aforeſaid, ſo as aforeſaid diſcharged, in and upon the left Side of the Belly of him the ſaid *Thomas Eggleſtone*, near the Hip-bone, one mortal Wound of the Breadth of two Inches, and the Depth of 10 Inches, of which ſaid mortal Wound he the ſaid *Thomas Eggleſtone*, then and there inſtantly died; and for that you the ſaid *Joſeph Redding* at the Time of the Felony and Murder aforeſaid, in Form aforeſaid done and committed felonioufly, willfully, and of your Malice aforethought, was preſent, aiding, abetting, aſſiſting, comforting, and maintaining the ſaid *James Anneſley*, him the ſaid *Thomas Eggleſtone* in Form aforeſaid, to kill and murder; and ſo you the ſaid *James Anneſley* and *Joſeph Redding*, the ſaid *Thomas Eggleſtone*, in Manner and Form aforeſaid, felonioufly, willfully, and of your Malice aforethought, did kill and murder, againſt the Peace of our ſaid Lord the King, his Crown and Dignity.

How ſay you, *James Anneſley*, are you guilty of this Felony and Murder, or not guilty?

James Anneſley. Not guilty.

Cl. of the Arraigns. Culprit, how will you be tried?

J. Anneſley. By God and my Country.

Cl. of the Arr. How ſay you, *Joſeph Redding*, are you guilty of the ſaid Felony and Murder, or not guilty?

J. Redding. Not guilty.

Cl. of the Arr. Culprit, how will you be tried?

Redding. By God and my Country.

Cl. of the Arr. *James Anneſley*, hold up your Hand. You ſtand alſo indicted in the County of *Middleſex*, by the Name of *James Anneſley*, late of the Parish of *Staines*, in the County of *Middleſex*, Labourer; for that you, not regarding the Laws and Statutes of this Realm, nor the Pains and Penalties therein contained, after the firſt Day of *June* 1723. to wit, the firſt Day of *May*, in the 15th

† Year

Year of the Reign of our Sovereign Lord *George* II. now King of *Great-Britain*, &c. with Force and Arms at the Parish aforesaid, in the County aforesaid, with a certain Gun loaded with Gunpowder and Leaden Shot, which you in both your Hands, then and there had and held, wilfully, maliciously, and feloniously, did shoot at one *Thomas Eggleſtone*, against the Form of the Statute in such Case made and provided, and against the Peace of our Lord the King his Crown and Dignity.

How say you, *James Annesley*, are you guilty of this Felony whereof you stand indicted or not guilty?

J. Annesley. Not guilty.

Cl. of the Arr. Culprit, how will you be tried?

Annesley. By God and my Country.

Cl. of the Arr. God send you a good Deliverance.

The Defendants being thus arraigned, the Court thought the Day too far spent to proceed to a Trial of so much Expectation, and therefore ordered it to come on the next Morning; but the Counsel for the Prosecutor alledging they could not attend the next Day, and desiring to put off the Trial to this present Sessions, the Court were pleased to indulge them, upon their consenting that the Defendants should be admitted to bail.

Whereupon Mr. *Annesley* was ordered to give four Sureties in 250 *l.* each, and *Joseph Redding* four in 50 *l.* each; and this being done in Court, they were both immediately set at Liberty.

On *Wednesday* the 14th Day of *July* 1742, the Prosecutor's Council mov'd that the Trial might come on the next Day, which by Consent of the Defendant's Solicitor was ordered accordingly; notwithstanding which, the next Day when the two Defendants had surrendered themselves, and were ready with their Witnesses, the Prosecutor moved to put the Trial off for another Day; but not alledging any sufficient Reason for the Delay, the Court were pleased to direct the Trial to go on.

According'y the Defendants were again arraigned and pleaded as at the last Sessions, and there being no Challenges to the Jury,

The following Gentlemen were impannelled and ſworn,

The Names of the Jury.

Walter Lee,	*Robert Harrop,*
John Deſchamps,	*William Duck,*
John Reynolds,	*William Boucher,*
William Lewis,	*Edmund Stowell,*
Francis Rawlins,	*Thomas Whitehead,*
John Sandwich,	*Francis Tredgold.*

Cryer. If any one can inform my Lords the King's Juſtices, &c.

Cl. of the Arr. *James Anneſley,* hold up your Hand, *J. Redding,* hold up your Hand.

You of the Jury look upon the Priſoners and hearken to their Charge.

They ſtand indicted by the Names of *James Anneſley,* late of *Staines* in the County of *Middleſex,* Labourer, and *Joſeph Redding* of the ſame Labourer; for that they, &c. (as in the Indictments) and upon theſe Indictments they have been arraigned, and thereunto pleaded not guilty, and for their Trial have put themſelves upon their Country, which Country you are, your Charge is to enquire, &c.

Mr. *Brown.* My Lord, and you Gentlemen of the Jury, this is an Indictment for Murder. The Indictment ſets forth that *James Anneſley* and *Joſeph Redding,* did make an Aſſault with a Gun, on the Body of one *Thomas Eggleſtone*; and that the Priſoner *Anneſley* did diſcharge the ſaid Gun againſt the left Side of the ſaid *Thomas Eggleſtone,* and did make a Wound on the left Side of the Belly of the ſaid *Thomas Eggleſtone,* of which he inſtantly died; and that the ſaid *Joſeph Redding* was aiding and aſſiſting the ſaid *James Anneſley,* to murder the ſaid *Thomas Eggleſtone.* Gentlemen, if we prove our Charge I hope you will find the Priſoners guilty.

Mr. Serjeant *Gapper.* Gentlemen, the Priſoners ſtand indicted for the Murder of *Thomas Eggleſtone*; *James Anneſley* was the Perſon who killed the ſaid *Thomas Eggleſtone,*

gleſtone, and *Joſeph Redding* he was aiding, abetting, and aſſiſting in the Murder, and ſo they are both guilty of Felony and Murder. And, Gentlemen, there is an Act of Parliament, made in the 9th Year of his late Majeſty King *George* I. that if any Perſon does wilfully ſhoot at another, 'tis Felony without Benefit of Clergy. Gentlemen, the Caſe is thus. On *Saturday* the 1ſt of *May*, *Thomas Eggleſtone*, the deceaſed, and his Son, were going to fiſh, at a Place called *the Moor*, near *Staines*; they had a Caſting-net, and there was a String which belongs to the Net, and this String was about the deceaſed's Right Arm: they were fiſhing in a Meadow belonging to one *Sylveſter*; and as they were fiſhing towards the North of the Encloſure, the Deceaſed ſeeing the Priſoners, ſtopped, and went back again, and as they were going back again, inſtantly came up the Priſoner, *Joſeph Redding*, and ſeized the Deceaſed by the Shoulder, and demanded the Net, but the deceaſed caſt the Net into the River, which was on his right Hand; then came up the other Priſoner, *Anneſley*, with a Gun in his Hand, and ſwore at the deceaſed, and ſaid, Damn you ſurrender, or you are a dead Man; he pointed the Gun immediately towards his Side before a Word of Reply, and ſhot him, the Force of the Powder drove the Shot and ſome of the deceaſed's Coat into his Body; he clapped his Hand to his Side, and ſaid, you Rogue, what have you done? dropped down and died immediately. Then *John Eggleſtone*, the Son, took a Knife out of his Pocket to cut the String of the Net; upon which, the Priſoner *Anneſley* turned the Butt End of the Gun, and ſaid to him, you Rogue, I will knock your Head off; to avoid which, young *Eggleſtone* jump'd into the Water, Breaſt high, and cut the String of the Net, and dragged it to the other Side of the Water, and cried out his Father was murdered. There were three Perſons, *Fiſher*, *Butterworth*, and *Bowles*, who could ſee what was done; they were on the other Side of the River, about 160 Yards from the Place where the Accident happened; they heard a Gun fired, and the young

Man

Man cry out that his Father was kill'd; and when they came to the River Side, he had just dragg'd the Net out of the River; upon this they crossed over, and found the Man dead, or so bad that he could not live, and thereupon directed the Son to go and fetch Mr. *Cole*, a Surgeon at *Staines*; he went accordingly to Mr. *Cole*, and desired him to come along with him, for his Father was shot, and he believed he was dead. Why, says Mr. *Cole*, if he is dead, it does not signify my coming. I can do him no good; so then the young Man went to Mr. *Russel*, a Constable at *Staines*: but I should tell you, Gentlemen, that as soon as the Prisoners saw these three Persons, *Fisher*, *Bettesworth*, and *Bowles*, coming towards the River, they ran away; afterwards *Russel*, the Constable, and some other Persons coming up, they thought proper to pursue the Murderers: Accordingly they went to a Farm-house where *Annesley* and *Redding* used sometimes to lodge, and there found *Annesley*, and apprehended him, and sent him to the Round-house at *Staines*; *Redding* could never be found, but he has surrendered himself since, in order to take his Trial. The Prisoner *Annesley* was carried before a Justice of the Peace, I think Sir *Thomas Reynell*, he was carried to *Hounslow*, and from thence to *Laleham*; what that Examination was I cannot tell. They made Application to this young Man to be favourable, and not to carry on the Prosecution; says he, Gentlemen, I will not sell my Father's Blood. This, Gentlemen, is the Nature of the Case, and if we prove our Charge, that they have been guilty of Murder, Gentlemen, you will find them guilty.

[*John Eggleſtone* ſworn.]

Mr. Serj. *Gapper*. Give an Account what you know of this Matter, and ſpeak the Truth.

John Eggleſtone. An't pleaſe you, my Lord, on *Saturday* the 1ſt of *May*.—

Serj. *Gapper*. Speak ſlow and deliberately, that the Court and the Jury may hear you.

John Eggleſtone. An't pleaſe you, my Lord, on *Saturday*, the 1ſt of *May* laſt, I and my Father were going

up

up *Staines* River, to catch a Dish of Fish in *Staines* Moor, in the Parish of *Staines*, with a Casting-net; we fish'd all the Way up till we came to this Ground?

Mr. Serj. *Gapper*. In whose Possession was the Ground?

John Eggleſtone. It was Mr. *Samuel Sylveſter*'s Meadow; we were turning back again, an't please you my Lord, in order to go Home; my Father he carried the Net upon his Arm, and the String was fastened to his Arm.

Mr. Serj. *Gapper*. Well, as you were coming back from fishing, what happened then?

John Eggleſtone. By that Time we had got half way in the Meadow, we saw *Joseph Redding* and Mr. *Anneſley* running, and *Joseph Redding* out ran Mr. *Anneſley*, and came up to my Father first.

Mr. Serj. *Gapper*. When they came up what was the first Thing they did?

John Eggleſtone. *Redding* took my Father by the Collar, and demanded the Net, and he refused to deliver the Net.

Court. Did you see him take him by the Collar?

John Eggleſtone. Yes, my Lord.

Serj. *Gapper*. What became of the Net afterwards?

John Eggleſtone. My Father threw it into the River.

Mr. Serjeant *Gapper*. How far were you from the River then?

John Eggleſtone. I was about two Yards from the River. After the Net was thrown into the River, *Anneſley* came up with his Gun, and swore, God damn your Blood, deliver your Net, or you are a dead Man; and he fir'd off before he received any Answer from my Father.

Mr. Serjeant *Gapper*. In what Manner did *Anneſley* hold his Gun?

John Eggleſtone. In this Manner, (pointing the Gun strait forward) holding it about Breast high, stooping a little.

Mr. Serjeant *Gapper*. How near was the Gun to your Father when he fir'd it?

John

John Egglestone. It was close to my Father's Side, he put the Gun between *Redding* and my Father, and shot directly into his left Side, here, (holding his Hand to his Hip) he had a Plate Button there which was bruised to Pieces; then my Father said, you Rogue, what have you done, I am a dead Man, and dropp'd immediately.

Mr. Serjeant *Gapper.* What did *Annesley* say before he fir'd?

John Egglestone. He swore if he did not deliver the Net he was a dead Man, and then fir'd immediately.

Mr. Serjeant *Gapper.* What did you do after you heard your Father say he was a dead Man?

John Egglestone. I took a Knife out of my Pocket to cut the String of the Net: And *Annesley* said, you Rogue, I will knock out your Brains too, and held up the butt End of his Gun; upon that I jump'd into the Stream, and cut the String, and drew the Net over to the other Side of the River: then says *Annesley*, the Rogue has got the Net, let us go to the other Side after him.

Mr. Serjeant *Gapper.* Who did you see when you came on the other Side of the River?

John Egglestone. I saw *John Bettesworth*, *John Fisher*, and *John Bowles*, and when *Annesley* and *Redding* saw these three Men they ran away directly.

Mr. Serjeant *Gapper.* How near were *Bettesworth*, *Fisher* and *Bowles* to you, before *Annesley* and *Redding* ran away.

John Egglestone. As soon as I got on the other Side of the River, they saw these three Men coming, and then they ran away; and *Bettesworth*, *Fisher*, and *Bowles* came through the River to the Side where my Father lay dead; they came from one Side to the other.

Mr. Serjeant *Gapper.* What did you do then?

John Egglestone. They bid me get a Surgeon; so I went to one *Charles Cole*, a Surgeon at *Staines*.

Mr. Serj. *Gapper.* When you came to *Staines*, did you meet with *Cole*?

John Egglestone. Yes: And I told him my Father was shot, and I believed he was dead or dying, but he never

never came near my Father; then I went to *Ruſſel* the Conſtable, and he took ſome Townſmen with him, and went to old Mr. *Redding*'s-Houſe, at *Yeovely* Farm, to ſearch for the Man that kill'd my Father; we beſet the Houſe all round, and found *James Anneſley* hid up in a Corner.

Mr. Serjeant *Gapper*. How long were you there before he was found?

John Eggleſtone. I was there about a quarter of an Hour, or a little more.

Mr. Serjeant *Gapper*. Was you preſent then?

John Eggleſtone. Yes: I was there all the Time; then, an't pleaſe you my Lord, they pull'd him down.

Mr. Serjeant *Gapper*. Where was he hid?

John Eggleſtone. He was hid in a Place which is five or ſix Foot from the Ground, where they put old Iron and any Sort of Lumber, 'tis a boarded Place or Room over the Waſh-houſe; a Place where the Women makes Medicines for ſore Eyes.

Court. Was there a Chimney in it.

John Eggleſtone. I do not know.

Mr Serjeant *Gapper*. Was he ſtanding up or lying down, or how was he when he was found?

John Eggleſtone. I do not know, for I did not ſee him till he was pull'd down; he was carried in a Chair into the Yard, and ſat there about a quarter of an Hour, and then was put into the Cart that brought up my Father, and was carried to the Round-Houſe at *Staines*.

Mr. Serjeant *Gapper*. This is all you know, is it not?

John Eggleſtone. An't pleaſe you, my Lords, I can tell you a great deal more.

Mr. Serjeant *Gapper*. Who pull'd him down?

John Eggleſtone. I do not know.

Mr. Serjeant *Gapper*. Was this Wound the Occaſion of your Father's Death?

John Eggleſtone. Yes, it was.

Mr. Serjeant *Gapper*. Go on, you ſay you have other Things to ſay.

John Eggleſtone. He lay in the Round-Houſe all Night, the next Day *Anneſley* the Priſoner and I, went in a Cart to a Juſtice at *Hounſlow*, and there was one *Mac Kercher* there, who ſaid to me ——

Court. What *Mac Kercher* ſaid is no Evidence againſt the Priſoners.

Mr. Serjeant *Gapper.* We will let this alone a little.

Court. Can you prove he was any ways employ'd as an Agent by the Priſoner.

Mr. Serjeant *Gapper,* I believe we can.

Foreman of the Jury. My Lord, pleaſe to aſk him whether there was no Quarrel, Buſtle, or Struggling, between *Anneſley*, *Redding*, and *Eggleſtone*, before the Gun went off.

John Eggleſtone. There was no Quarrel or Joſtling, my Father never gave him an ill Word.

Court. Did your Father make no Reſiſtance?

John Eggleſtone. No, no Reſiſtance at all.

Q. Was there no Joſtling, nor any Thing elſe paſs'd?

John Eggleſtone. Yes: *Redding* took my Father by the Collar, and *Anneſley* came up in the mean Time.

Court. What happen'd between your Father and *Redding* before *Anneſley* came up?

John Eggleſtone. He demanded his Net.

Court. I thought you ſaid there was ſome joſtling?

John Eggleſtone. No other Joſtling than laying his Hand upon my Father's Collar, but my Father never laid his Hand upon him.

Mr. *Brown.* How near were you when *Redding* laid his Hand upon your Father?

John Eggleſtone, About a Yard and an half off.

Mr. *Brown.* You ſay he ſhot off the Gun, I aſk you what you mean by ſhooting off the Gun?

John Eggleſtone. Why he fir'd the Gun to ſhoot my Father.

Mr. *Brown.* What do you mean by ſhooting off the Gun?

John Eggleſtone. He came up directly, as if he was going to ſhoot a Dog.

Mr. *Brown.* Did you ſee him draw the Trigger of the Gun?

John Eggleſtone. No, I did not.

Mr. *Brown.* Was the Gun cock'd before he came up?

John Eggleſtone. I do not know.

Q. Did you ſay that it was?

John Eggleſtone. I do not know that I did.

Mr. *Brown.* Pray was any body preſent at the Time?

John Eggleſtone. There was no body near but *Betteſworth*, *Fiſher*, and *Bowles*, nor no body came up.

Mr. *Brown.* Did the Priſoner offer you any Money?

John Eggleſtone. Yes, he offer'd to ſettle 50 *l.* a Year on me.

Mr. *Brown.* Where was this?

John Eggleſtone. When I was at *Lakeham*, the next Day after my Father's Death.

Mr. Serjeant *Gapper.* How came you there?

John Eggleſtone. We went to a Juſtice's at *Brenſford*, but he not being at home, we put up at the Red-Lion there, and while we were there, Sir *Thomas Reynel* came in and ordered us to go to *Lakeham*; accordingly we went to one Mr. *Lee*'s into a little Room, and there was *Jack Lane*, Mrs. *Cheſter*, and the Priſoner; Young *John Lane* offered me 100 l. a Year, but the Priſoner ſaid he could not ſettle 100 l. a Year upon me, for he had more to do for, but he ſaid he would ſettle 50 l. a Year on me: this was ſaid in the Preſence of the Priſoner.

Mr. *Brown.* Did he mention what he would give you 50 *l.* a Year for?

John Eggleſtone. Becauſe I ſhould not come in as an Evidence againſt him.

Mr. Serjeant *Gapper.* What is the Reaſon you did not comply with this Offer?

John Eggleſtone. I told them I would not ſell my Father's Blood at any Rate.

[*The Council for the Prosecutor having done with this Witness, he was Cross-examined as follows.*

Q. Pray in what Manner did Mr. *Annesley*, *Redding*, and your Father stand, when this Accident happened?

John Eggleſtone. *Redding* ſtood between *Annesley* and my Father, and had him hold by the Collar.

Q. Do you know *William Duffel*, and had not you ſome Talk with him about the Manner of your Father's Death?

John Eggleſtone. No, I never ſaw him, nor had any talk with him.

Q. Had you any Converſation with one *John Dalton*, at *Laleham*, where you ſay you was offered that Money?

John Eggleſtone. I came out of the Room to aſk him whether I ſhould take the Money or not; for he ſaid, I had better take the Money, and not hang the Man.

Q. Then you ſaid nothing at that Time about the Manner in which your Father was killed?

J. Eggleſtone. No, Sir.

Q. You ſay you ſtood by, and ſaw Mr. *Annesley* point the Gun to your Father: Did you ſee him cock the Gun?

J. Eggleſtone. I did not ſee him cock it, the Gun was cock'd when he came up to my Father.

Q. Do you know one *Giffard*?

J. Eggleſtone. Yes.

Q. When did you come firſt to be acquainted with him; before or ſince your Father's Death?

J. Eggleſtone. After my Father was killed.

Q. Did not you meet with him at *Staines*?

J. Eggleſtone. Yes, I believe I did.

Q. Did you ever ſee him there before?

J. Eggleſtone. No, never?

Q. Did you give him any Orders or Authority to proſecute upon the Account of your Father's Death?

J. Eggleſtone. No.

Q. Do you know one *Williams*?

J. Eggleſtone. Yes.

Q. Where does he live?

John

John Eggleſtone. He keeps the White Horſe in Piccadilly.

Q. How did you come acquainted with him?

Eggl. He came to *Staines* and ſent for me.

Q. What did he want with you when he ſent for you?

Eggl. I don't know, I went to live with him as a Servant.

Q. What Buſineſs was you of, when your Father died?

Eggl. I work'd with my Father as a Carpenter.

Q. If you was brought up a Carpenter, how came *Williams* to find you out for a Servant?

Eggl. I can't tell.

Q. How long have you liv'd with him?

Eggl. Ever ſince my Father's Death, and I live with him now.

Q. Have you not ſeen, my Lord——at *Williams*'s?

[Here the Court interpos'd, and ſaid, the Queſtion was improper.]

Q. You ſay you are Mr. *Williams*'s Servant, have you not dined with him at his Table?

Eggl. Yes.

Q. Do you dine at his Table now?

Eggl. No, I am his Servant.

Q. Do you know the Reaſon why you was ſent from dining at his Table to draw Beer?

Eggl. No, Sir.

Q. Do you know one *Paul Keating*?

Eggl. Yes.

Q. Do you know any Thing of a Note he drew for you at the *Oxford-Arms*?

Eggl. He did draw ſomething of a Note, but I tore it.

Q. What made you tear the Note?

Eggl. Becauſe I did not like his Proceedings.

Q. What were the Proceedings you did not like?

Eggl. I do not know, I did not underſtand them.

Q. Why, did not you read the Note before you tore it?

Eggl. No, I did not.

Q. How

Q. How came the Note to be wrote? Did he ſay nothing to you about writing of a Note before he wrote it?

Eggl. Nothing at all, but he deſired me to copy it?

Q. What did he ſay to you when he deſired you to copy the Note?

Eggl. Nothing; it lay upon the Table, and I tore it.

Q. What did you tear it for, if you had not read it?

Eggl. Becauſe it was about Things that I did not know what they were.

Q. Did not he deſire you to copy the Note?

Eggl. Yes.

Q. What did he ſay then?

Eggl. I can't tell what he ſaid.

Q. Was you ever at *New-Priſon* to ſee Mr. *Anneſley*?

Eggl. Yes.

Q. What did you go for?

Eggl. I cannot tell.

Q. I aſk you what you went for?

Eggl. I went for my own Fancy.

Q. Did you not ſend up Word to him you was ſure he would be glad to ſee you?

Eggl. I believe I might.

Q. What was the Reaſon, for which you thought Mr. *Anneſley* would be glad to ſee you?

Eggl. I cannot tell, I was willing to ſee him.

Q. Did you never in ſpeaking of your Father's Death, ſay that it was done accidentally?

Eggl. I do not know that I did.

Q. Did you never ſay to *Keating* that you were to have 200 *l.* or had a Promiſe, or that you were to have Security, and from whom?

Eggl. No, Sir, I never did.

Q. Did you give the ſame Account with reſpect to the holding of the Gun as you do now, before the Coroner's Inqueſt, and before the Juſtice?

Eggl. Yes, I am ſure I did.

Q. Did not you give two Accounts before the Coroner's Inqueſt; part at one time, and went out, and the Remainder

Remainder when you came in again?

Eggl. No.

Q. Did you never ſay that the Butt End of the Gun was up to his Shoulder, and the muzzled Point downward.

Eggl. No, I did not.

Q. Did you never ſay any Thing to any body of the Manner of Mr. *Anneſley*'s drawing one of his Feet back?

Eggl. No never.

Q. Can you tell which of his Legs he drew back?

Eggl. No, I cannot tell which he drew back.

Q. Did you never ſay which?

Eggl. No.

Q. To No-body?

Eggl. No, never.

Mr. Serjeant *Gapper*. You ſaid you went to the *Oxford-Arms* with *Keating*, and there was ſomething talk'd of relating to a Note, was there any Offer made to you there?

Eggl. No, Sir.

Mr. Serj. *Gapper*. You talk'd of a Paper that was tore, do you know the Contents of it?

Eggl. No, Sir, I do not.

[*John Bettefworth* ſworn.]

Mr. Serj. *Gapper*. Tell us what you know of this Matter, and where you were when you heard a Gun fir'd on the firſt of *May*?

Bett. *Thomas Eggleſtone* and his Son were a Fiſhing; I was 169 Yards ſome odd Inches from the River as near as I could meaſure.

Q. What Ground was it in?

Bett. They were in the Ground called Mr. *Silveſter*'s Rents.

Mr. Serj. *Gapper*. Are there many Hedges on the Side of the River where the Deceaſed was?

Bett. There were a pretty many Willows, but any body might ſee through them.

Mr. Serj. *Gapper*. What did you ſee?

Bett. I ſaw *Joſeph Redding* and Mr. *Anneſley* come over the Hedge.

Mr.

Mr. Serj. *Gapper.* What Hedge?

Bett. The Hedge that parted Mr. *Sylveſter*'s Ground from Mr. *Redding*'s Ground, I do not know whether one of them did not come over the Stile, then they both ran after *Eggleſtone*, and his Son: young *Redding* came up firſt.

Mr. Serj. *Gapper.* Did he lay hold of *Eggleſtone*?

Bett. Whether he laid his Hand upon his Collar, or what, I cannot tell; but the Boy run away.

Q. Who was it laid hold of the Shoulder or Collar of the Deceaſed?

Bett. Redding, I ſaw his Hand upon the Shoulder, or Collar of the Deceaſed, but I cannot ſay poſitively, whether he had him by the Shoulder or Collar.

Mr. Serj. *Gapper.* How long was it after that, that *Anneſley* came up?

Bett. The Boy was gone but a little way from his Father, and when Mr. *Anneſley* came up to his Father, he came back again.

Mr. Serj. *Gapper.* How near was he to his Father when this Accident happen'd?

Bett. I cannot ſay how near he was to his Father, I believe two or three Yards off. —— *Anneſley* and *Redding* come up almoſt together, but *Anneſley* came up after him, the Gun went off after he came up: I ſaw the Smoak and heard the Fire.

Mr. Serj. *Gapper.* As you were 169 Yards off, how came you to come up?

Bett. The Boy called to us and ſaid his Father was killed.

Mr. Serj. *Gapper.* Who came along with you?

Bett. John Bowles, and *John Fiſher*, we came to the River juſt againſt the Place where Mr. *Eggleſtone* lay, and we could not get over there without being thus high (putting his Hand to his Middle) but we went over in a ſhallower Place a little farther.

Mr. Serj. *Gapper.* Were *Anneſley* and *Redding* there when you came over?

Bett. No, they run away before that.

Mr. Serj. *Gapper.* Was *Eggleſtone* dead or alive when you came up?

Bett. He was not dead, but he could not ſpeak. I

deſired the Boy to go for a Surgeon, and he went away directly.

Mr Serj. *Gapper.* Who came firſt to the River?

Bett. I do not know.

Mr Serj. *Gapper.* Did you all three come up together?

Bett. Yes, I was coming rather before the Boy cried out, for I ſaw the Man drop, I could not ſee the Boy for a good while, for he was in the River, and he cut the Net from his Father's Arm, as he ſays, I did not ſee that; but I ſaw the Boy come croſs the River, and when I came up I ſaw that the Net was brought croſs the River.

Mr. Serj. *Gapper.* How did *Eggleſtone* lie?

Battefworth. He lay upon his Face; I lifted up his Head, he groan'd pretty much, but he could not ſpeak: I ſent the Boy for a Surgeon, but no Surgeon came.

Mr. Serj. *Gapper.* Was you at the Appprehending of the Priſoner?

Bett. Yes, I was.

Mr. Serj. *Gapper.* What Place was it the Priſoner was in when he was taken?

Bett. It was a Sort of a waſh houſe, a back-Houſe: he was in a Place where they throw up Hoops and Iron, and any Sort of old Lumber? I ſaw him lie upon his Face.

Mr. Serj. *Gapper.* Who took him down?

Bett. I do not know.

Mr Serj. *Gapper.* What did they do with him then?

Bett. They carried him to the Round-houſe at *Staines.*

Court. When you came to the Place where you ſay he had hid himſelf, did he come down of his own accord?

Bett. Yes, my Lord.

Mr. *Brown.* When you heard the Gun go off, whoſe Hand was it in?

Bett. Mr. *Anneſley's.*

Mr *Brown.* Do you know the Poſition of the Gun when it went off?

Bett. No, I do not.

Mr. *Brown.* Did you obſerve any Struggle between

Annesley, *Redding*, and the Deceased?

Bett. No other than their striving to take the Net away.

Q. Do you remember any Thing that passed in the Round-House? —— did the Prisoner say any Thing there?

Bet. Yes, the Prisoner said he desired to be kill'd out of the way, for being accessary to such an innocent Man's Death.

Brown. What did he tell you besides?

Bett. He said he would have gone Home for more Men, but *Joseph Redding* would not let him.

Brown. What did he want more Men for?

Bett. To take away the Net.

Q. What Answer did he say *Redding* made him to that?

Bett. I believe it was, that he said we can do it well enough.

[The Prosecutor's Council having done with this Witness, he was Cross-examined as follows.]

Q. Did you see Mr. *Annesley* and *Redding* before they came up to the Deceased?

Bett. Yes, I did.

Q. Did you observe Mr. *Annesley* making any use of his Gun before he came up?

Bett. I saw him offer to shoot at a Crow.

Court. How long was that before this Accident happened?

Bett. I believe about Half an Hour.

Q. Was the Crow flying or sitting?

Bett. Flying.

Q. Did you observe whether he did Shoot at the Crow?

Bet. Not then, he did not.

Q. How far were you off then?

Bett. About as far, I think, as when I saw the Man kill'd.

Q. What was the Position of the Gun when you saw him come up running.

Bett. It was on this manner, (holds it as if the Gun was with the Muzzle hanging a little slanting towards the Ground.)

Brown.

Brown. You ſay you ſaw *Anneſley* and *Redding* in the other Ground, before they came into that Ground which belongs to *Silveſter* — what were they doing there, were they Standing, Sitting, or what?

Bett. They were Sitting or Lying under the Hedge, I cannot tell which.

Q. For what Purpoſe do you imagine they were Sitting or Lying there?

Bett. I cannot ſay that. I may imagine they came to take the Net away, I cannot imagine any Thing elſe.

Q. Did you ſee the Boy go into the River?

Bett. Yes, and it was juſt after his Father was ſhot.

[*John Fiſher* ſworn.]

Mr *Brown.* Do you know the Priſoners at the Bar?

Fiſher. I know Mr. *Redding.*

Q. Do you believe this to be the Perſon who was along with Mr. *Redding* at the Time that Mr. *Eggleſtone* was kill'd? —— Look at Mr. *Anneſley*'s Face, and ſee whether that is the Man.

Fiſher. I ſee Mr. *Anneſley*, but I cannot ſay that he is the Man; I ſaw two Men lie under the Hedge a conſiderable Time, and ſaw a Piece in one of their Hands.

Brown. In which Ground were they?

Fiſher. I believe in Mr. *Redding*'s Ground.

Brown. In what Ground was *Eggleſtone?*

Fiſher. He was in *Silveſter*'s Ground. *Betteſworth* called to me, and ſaid there is *Redding* running after *Eggleſtone*, and *Redding* laid hold of *Eggleſtone*, the Deceaſed, and then came up the other with a Piece: I cannot ſay whether he touched him or no.

Court. In what Manner did *Redding* lay hold of him?

Fiſher. I cannot ſay, I was at ſuch a Diſtance; but I thought he laid hold of his Shoulder.

Brown. Did *Eggleſtone* make away from him?

Fiſher. Yes, for he knew he was out of the Bounds that he ought to have been fiſhing in; and there was a ſort of a Struggle to take away the Net; and I thought that *Redding* and the other Perſon did both ſnatch at the Net, and then the Gun went off.

Brown. In whoſe Hand was the Gun?

Fisher. Not in *Redding's* Hand, but in the Hand of the other Person.

Brown. Was not you attentive at that Time, to see in what Manner he carried the Gun?

Fisher. It may be this Way, or that Way, I cannot say whether he had the Gun against his Shoulder or no?

Brown. How near was he to the Deceas'd?

Fisher. Very nigh, I believe not above the Length of a Gun?

Serj. *Gapper.* Did you see *John Eggleston* by, when you first came up?

Fisher. He was near the River.

Brown. Did you hear the Boy cry out?

Fisher. Yes, he said his Father was killed; —— he saw me, and called me by my Name, and said my Father is killed, and I came directly cross the River.

Brown. What then became of *Annesley*, and the other?

Fisher. They ran away; we halloo'd after them, but I did not think the Man was shot, though I saw the Smoak and Fire of the Gun.

Q. Who went over the River first?

Fisher. We were all three together almost, I cannot tell who was over first, but I believe I was.

Q. What was said to the Boy then?

Fisher. Nothing; only to go and get a Surgeon.

Q. Who bid him go?

Fisher. Somebody did, I did not I believe it was *Bettesworth*, and the Boy ran away directly.

Q. Was there any Surgeon brought there?

Fisher. No.

Q. Who came there afterwards?

Fisher. Mr. *Silvester:* he saw the Deceased lying upon the Ground, but he was not there when the Murder was committed?

Q. Was you in the House when he was taken?

Fisher. No.

Q. Was you with him before the Justice of Peace?

Fisher. I was examined, but I was not present when the other Witnesses were examined.

Brown. What Distance was there between you and the Deceased when the Gun went off?

Fisher.

Fiſher. One Hundred and Sixty-nine Yards.

Q. Do you include the Breadth of the River?

Fiſher. Yes I do.

[Croſs-Examined.]

Q. You ſay you think that both *Redding* and *Anneſley* ſnatch'd at the Net?

Fiſher. I think they did.

Q. Do you think it was poſſible for you to hear what paſſed between them?

Fiſher. I could not hear one Word.

Q. I would aſk you, whether young *Eggleſtone*, before he was examined by Sir *Thomas Reynell*, did not ſay to you he believed the Gun did go off by Accident?

Fiſher. He ſaid he believed it was not done wilfully. He had Money offered him, in my hearing, by *John Lane*; Mr. *Anneſley* ſaid he could not give him 100 *l.* a Year; but he would give him 50 *l.* for he had others to do for; then, ſaid the Boy, I will not ſell my Father's Blood; I believe he was in Liquor.

Q. What did you ſay to him?

Fiſher. I ſaid your Father is dead; the Money will do you good; do not ſwear any thing againſt him, if you think it was done accidentally; he ſaid the Money will do me good if I had it; I believe the Gentleman did not do it wilfully.

Q. Had you not ſome Converſation together, after his Examination before the Juſtice?

Fiſher. I aſked him, after he was examined, what he had done; and how he could ſwear againſt him, when he had ſaid ſo and ſo to me; ſaid he, I do not know any Thing of the Matter;

Q. Do you know Mr. *Williams* the Clergyman?

Fiſher. Yes.

Q. Did not you make a Declaration of this to him?

Fiſher. Yes; I ſaid to Mr. *Williams*, that *Eggleſtone* told me he really believed that the Gentleman did not do it wilfully.

Mr. *Brown.* Did not he ſay it was wilfully done as you were going along to the Juſtice's?

Fiſher. All the Way he went, he ſaid, he believ'd he did it wilfully, but after the Priſoner had been talking with him, he ſaid he believed it was not done wilfully.

[*Samuel*

[*Samuel Sylvester* ſworn.]

Mr. Serj. *Gapper.* Did you ſee the Deceas'd after he was Dead?

Sylveſt. He lay dead on the Ground that I rent, near the River-ſide.

Mr. Serj. *Gapper.* Do you know how he came by his Death?

Sylveſt. I was going up to look after my Ground, and when I came within 200 Yards or thereabouts of it, I met 3 Men, who told me old *Eggleſtone* was killed; and ſaid, there he lies; I ſaw ſeveral People there, and ſo I went up and ſaw him lie dead there.

Mr. Serj. *Gapper.* Do you know where the Priſoner *Anneſley* was taken?

Sylveſt. He was taken in a back Building belonging to Mr. *Redding*'s Houſe.

Mr. *Brown.* Did you hear him ſay any thing at that Time.

Sylveſt. I did not hear him ſay any Thing, I believe he was in a Fit, for he trembled and fell down behind the Door.

Mr. Serj. *Gapper.* Was you at *Lalsham* before the Juſtice?

Sylveſt. Yes I was.

Mr. Serj. *Gapper.* Had not the Boy been drinking, and did he not ſleep before he went into the Juſtice.

Sylveſt. I believe he did, for about 3 quarters of an Hour, which refreſhed him.

[Upon the Croſs Examination.]

Q. Have you not received Money to pay the Witneſſes for attending here on this laſt Cauſe the laſt Seſſions, and from whom?

Sylveſt. Yes, I paid ſome of them, I think it was by Mr. *Giffard*'s Direction who ſubpœna'd me up; I aſked him who was to pay me, he ſaid I ſhould be paid half a Crown a Day for my Time, which was as much as he thought I could earn at my Buſineſs.

Q. What Buſineſs is this *Giffard* of?

Sylveſt. He is a Stranger to me.

Q. Do you know who he ſaid he was employed by?

Sylveſt. He ſaid he was concerned for the King.

Q. Do you know Mr. *Williams*?

Sylveſter. Yes.

Q. What

Q. What Buſineſs does young *Eggleſtone* follow?

Sylveſt. I believe he draws Beer now.

Q. How long have you known him?

Sylveſt. I have known him 5 or 6 Years.

Q. What Buſineſs was he bred to?

Sylveſt. Sometimes he would be out at Service, and ſometimes he would be with his Father in the Buſineſs of a Carpenter.

Q. Where does he draw Beer now?

Sylveſt. I think it is at Mr. *Williams*'s, at the white Horſe in *Piccadilly*.

Q. Have you had any Converſation with him about this Affair?

Sylveſt. I have been at his Houſe in *Piccadilly* ſince this Buſineſs has been in hand, but never had any talk with him about this Trial.

Q. Was not this *Williams* down before the Juſtice?

Sylveſt. I do not know.

Q. Did you ever ſee him at *Staines*?

Sylveſt. Yes, about a Week after the Accident happened.

Q. Have you ſeen the Boy, *Eggleſtone*, there ſince?

Syl. No, never?

Q. What, has he lived with *Williams* ever ſince?

Sylveſt. I can't tell.

Q. I aſk you whether you have not ſeen him at *Williams*'s Houſe every time you have been there?

Sylveſt. Yes, I believe I did.

Mr. Serj. *Gapper* then ſaid, they would reſt the Evidence here; and he hoped it had fully made out the Charge againſt the Priſoners; that the Ground where the Man was killed being the Property of *Sylveſter*, the Priſoners were Treſpaſſers by coming into it, and therefore anſwerable for the Conſequences. That as to Mr. *Anneſley*, there was not only implied, but expreſs Malice proved upon him, for that after he had killed the Father, he was for beating out the Son's Brains, only becauſe they would not let him and the other Priſoner run away with their Net.

Court. Mr. *Anneſley*, you are indicted in a very unhappy Caſe, what have you to ſay for yourſelf?

Mr. *Anneſley*. My Lord, I am very unable to make a proper Defence, having by the Cruelty of thoſe, whoſe

Duty

Duty it was to protect me, been deprived of the Advantages of an Education I was entituled to by my Birth.

All I know of the melancholy Accident in Question is, that on the unfortunate Day mention'd in the Indictment, I went out with my Gun, in Company with my innocent Fellow-Prisoner, to shoot Sparrows, as I usually did. As we were going along, Mr. *Redding*, who is Game-keeper to the Lord of the Manor, saw some People a Poaching within the Royalty, upon which he proposed to go and seize their Nets; I follow'd him, the deceas'd threw the Net into the River, and the Boy jump'd in to pull it across, to prevent which, I stoop'd to lay hold of one of the Ropes that trailed upon the Ground, and at the same Instant, the fatal Instrument I had in my other Hand, hanging by my Side, went off without my Knowledge, and to my great Grief as well as Surprize. My Behaviour immediately after the Accident, was, I hope inconsistent with a Temper that could murder a Man I had never seen before, without one Word of Provocation.

Whatever may be the Determination of your Lordship and the Jury, great as the Misfortunes of my Life have been, I shall always consider this unfortunate Accident as the greatest of them all.

Court. Mr. *Redding*, what have you to say for yourself?

J. Redding. My Lord, I am Game-keeper to Sir *John Dolben*, Lord of the Manor of *Yeoveney*. On the first of *May* last, in the Afternoon, Mr. *Annesley* and I went out a walking; we saw a Crow, and Mr. *Annesley* made an Offer to shoot at her, but I called to him not to fire, for that she was too far off: Soon after I saw *Eggleston* and his Son a Fishing with a Casting-Net, upon which I said to Mr. *Annesley*, I would go and endeavour to take their Net away, as it was my Duty to do; accordingly I went up to the deceas'd and demanded the Net, which he refused to deliver to me, and threw it into the River, one End of the String being about his Arm; I then laid hold of the String, and pulled, whilst the Boy endeavoured to draw it cross the River, and presently I heard the Gun go off (my Back being towards Mr. *Annesley*) and saw the Man fall down.—I said to Mr. *Annesley*, I hoped he had not shot the Man, he said no, but

but turning up the Flap of his Coat, we ſaw he was ſhot! upon which Mr. *Anneſley* cried out, what ſhall I do; and expreſſed ſo much Concern, that I am ſure it was quite an accidental Thing.

Mr. *Hume Campbell*, of Council for the Priſoners, ſaid, that altho' he knew by the Courſe of the Court at the *Old-Bailey*, he was not at Liberty to obſerve upon the Proſecutor's Evidence, yet he apprehended, that for the Eaſe of the Court, he might juſt open the Nature of the Defence, without making any Obſervations upon it.

That the Defence which the Priſoners inſiſted upon was, that the Gun went off meerly by Accident; that *Redding* was Game-keeper to Sir *John Dolben*, Lord of the Manor of *Yeoveney*, and had a proper and legal Deputation for ſeizing of Nets and other Engines, for deſtroying of Game. That the deceas'd and his Son were poaching with a caſting Net within the Manor; that Mr. *Anneſley* went in Aid of the Game-keeper; and therefore the Priſoners being about a lawful Act, were not ſo much as Treſpaſſers, and the Death that was the accidental Conſequence of that Act, would, in Point of Law, make Mr. *Anneſley* guilty only of Chance Medley.

[Mr. *Thomas Staples* ſworn.]

Q. Do you know the Manor of *Yeoveney*?

Mr. *Staples*, Yes: I am Deputy to my Father who is Steward to Sir *John Dolben*, as Lord of the Manor, under the Dean and Chapter of *Weſtminſter*.

Mr. Serj. *Gapper*. How do you know this to be a Manor?

Mr. *Staples*. I have the Grant of the Manor from the Dean and Chapter in my Pocket.

Mr. Serj. *Gapper*. Are there any Copy-holders?

Mr. *Staples*. Yes, I have admitted ſome Copyholders? I know it to be a Manor, becauſe I have held one Court there for my Father, and have ſeen him hold ſeveral.

Mr. Serj. *Gapper*. Is there any Manſion-Houſe belonging to this Manor?

Mr. *Staples*. There is a Manſion-Houſe belonging to it, which I think is the Houſe that Mr. *Redding* lives in.

Mr. Serj. *Gapper*. What Court was it you held there?

Mr. *Staples*. A Court Baron.

Mr. *Thomas Burlingson* sworn.

Q. Mr. *Burlingson*, look upon this Deputation. Are you a subscribing Witness to it, if you are, did you see this executed, and by whom.

Mr. *Burlingson*. Yes, Sir, that is my Name, I saw Sir *John Dolben* execute it, this is his Hand and Seal.

Court. Was it executed at the Time it bears Date?

Mr. *Burlingson*. Yes, I believe on the very Day.

Mr. *James Edmonds* sworn.

Q. Mr. *Edmonds*, look upon that Endorsement, do you know whose Hand that is?

Mr. *Edmonds*. My Lord, I went to the Clerk of the Peace for the County of *Middlesex*, and heard him acknowledge this to be his Hand, and that it was entered according to the Act of Parliament.

Mr. Serj. *Gapper*. Did you see any Entry of it?

Mr. *Edmonds*. He said it was entred, and acknowledged this to be his Hand, and told me that was sufficient.

Joseph Redding, the Elder, sworn.

R. Do you know the Place where this unhappy Case happened? *Redding*. Yes.

Q. Give an Account of what you know.

Red. I was in the next Field called *Chantry Mead*. This where the Accident happened, is called the *Hare Mead*.

Q. Where were you when this happened?

Red. As near as I can guess I was forty Pole off.

Q. What did you observe there?

Red. I saw my Son and Mr. *Annesley* coming up.

Q. How did they behave upon this Occasion?

Red. They were so troubled they could hardly wag or speak; my Son said he was afraid the Man was killed; and he said to Mr. *Annesley*, how did you do it? Mr. *Annesley* said, I did not think of the Gun's going off.

Q. How was the Gun carried when it went off?

Red. Just as I may hold this Sword. (Holding it in his right Hand, hanging down near the Pocket a few Inches from his Body, almost upon a Level) he had it in one Hand, as I have the Sword now.

Q. Did he express himself concerned?

Red. He was so concerned, that he did not run

ten

ten Pole, before he fell down and beat himſelf thus upon the Belly, and ſaid, *What have I done?*

Serj. *Gapper*, (on the Croſs-examination) where did you ſtand when the Accident happened?

Red. In *Chantry Mead.*

Q. Is there not a Hedge between *Chantry Mead* and *Hare Mead?*

Red. Yes, a new Hedge not above a Yard high, and I could ſee any thing as clear as I can ſee you.

Serj. *Gapper.* You were ſpeaking as to this being a Manour; how do you know it to be Manour?

Red. Becauſe there have been Courts kept there.

Serj. *Gapper.* By whom?

Red. By Sir *John Dolben.*

Q. On which Side of *Hare Mead* does the River lie; is it Eaſt, Weſt, North, or South?

Red. It is about South.

Q. Has not Sir *John* granted the Fiſhery to any Body?

Red. I Rent the Fiſhery, the Fiſhery belongs to me.

Q. Do you depute your Son to look after this?

Red. No, Sir *John Dolben* deputes him.

Q. How came Sir *John Dolben* to appoint your Son to be Game-keeper?

Red. Becauſe they robbed me daily.

Q. Have you aſſign'd that Fiſhery to any Body?

Red. No, I have not.

Q. Was you ſtanding up when the Gun went off, or ſitting?

Red. I was ſtanding up.

William Duffell, ſworn. Do you know *John Eggleſtone*, the Son of *Thomas Eggleſtone?*

Duff. Yes.

Q. Have you ever had any Converſation with him about this Matter?

Duff. Yes: He ſaid that as he and his Father were Fiſhing, they ſaw the Priſoner, *Redding*, coming up; that he deſired his Father to give him the Net, and he would run away with it, but his Father would not let him; that then *Redding* came up and demanded the Net; that *Thomas Eggleſtone*, ſaid he ſhould not have it, and then threw the Net into the River, and

in the mean Time, the other Gentleman came up and ſhot him; that *John Eggleſtone* jump'd into the River, and cut the Line of the Net to pull it out on the other Side; and that when the Gun went off and his Father dropped down, Mr. *Redding* ſaid to the other Gentleman, *Lord Sir, what have you done!* and then they both run Home: Mr. *Abraham Eggleſtone*, who was preſent, aſked him if he ſaw Mr. *Anneſley* pull the Trigger of the Gun; and *John Eggleſtone* anſwered, that he could not tell. I aſked him if there was any Quarrel or Words that had paſſed between them, and he ſaid no. — I ſaid it was very ſurprizing to me, that this Gentleman ſhould come and ſhoot his Father and nothing more paſs between them; I then aſked him in what manner he held the Gun; he had a Stick in his Hand, and ſhewed in what manner the Gun was held in his Hand, thus, (in his right Hand, the Arm hanging down near the Pocket, ſome Inches from his Body, and near upon a Level; which was the ſame manner that old *Redding* ſaid the Gun was held) I aſked if he thought he did it wilfully, he ſaid, he could not tell.

Q. Did you ever ſee this *John Eggleſtone* before, for he ſays he knows nothing of you?

Duff. I have known him theſe Eight Years, and he has been frequently at my Houſe.

Q. What Character has he?

Duff. I cannot ſay much in his behalf; his Father could not manage him at all,

Q. What Buſineſs did he follow?

Duff. His Father was a Carpenter, and he worked with him.

Q. When did he leave *Staines?*

Duff. Soon after this Accident happened.

Q. Where has he been ever ſince?

Duff. I have ſeen him at the *White Horſe* in *Piccadilly*; and I heard at *Staines*, that he was ſent for to *London*.

Q. Who was preſent at this Converſation beſides *Eggleſtone* and you?

Duff. Nobody but Mr. *Abraham Eggleſtone*.

Mr. Serj. *Gapper*. You ſay he could not ſay it was wilfully done, did he ſay it was accidentally done?

Duff.

Duff. No, he did not say it was.

Mr. *Brown.* Do you apprehend he had hold of the Gun by the Barrel near the Lock?

Duff. I understood by *Egglestone*'s manner of holding the Stick, that he meant that Mr. *Annesley* had hold of the Gun about the middle of the Barrel.

John Dalton sworn.

Q. What Discourse had you with young *Egglestone*?

Dalton. On the *Sunday*, when the Prisoner at the Bar was carried to *Lakeham* to be Examined, I went there: *John Egglestone* came to the Door, and called me out of the Room where I was, and said he wanted to speak with me. When I came out, he said he wanted to ask my Advice concerning this Accident: I said, I wonder you should ask my Advice, when you have Relations to advise with: he said, I thought fit to ask you, as you are my Master. While we were talking, *Samuel Sylvester* came out, and said, I was persuading the Boy to sell his Father's Blood; the Boy said, what do you mean you Fool you, my Master is persuading me to no such Thing. I then asked him, whether he thought it was Accidentally done or not; he said, he believed it was Accidental, rather than any other thing.

Q. What Character has the Boy?

Dalton. He was very irregular, and used to lie out.

Q. What Trade are you?

Dalton. I am a Butcher.

Mr. Serj. *Gapper.* You say he has a bad Character; do you think he would forswear himself?

Dalton. I can say nothing to that.

Mr. Serj. *Gapper.* Was there any talk of Money then?

Dalt. Yes, the Boy said he had been offered Money.

Q. But you say, he said he would not sell his Father's Blood?

Dalt. No, I said *Samuel Sylvester* came and said I was persuading him to sell his Father's Blood; and the Boy said my Master did not persuade me to any such Thing.

Mr. Serj. *Gapper.* What did you say to him afterwards?

Dalt. I told him he had lost his Father, and had no Friend to take Care of him, and he knew best what he had to do.

Q. Did

Q. Did not you say it was better to take Money, than Hang the Man?

Dalt. No, I said, I thought by what he told me, that the Man was in no danger of being Hang'd, and therefore he had better take the Money than endeavour to Hang a Man, that he thought did not do it designedly.

Mr. *Higgs*, belonging to the Clerk of the Peace being sworn, produced the Book wherein all the Game-keepers of all the Manours in the County of *Middlesex*, are enter'd; (reads) Sir *John Dolben* of *Northampton*, Baronet, to *Joseph Redding* the younger, dated 2*d* of *July*, 1741. Enter'd 29*th* of *Jan.* 1741.

Mr. *Richard Chester* sworn.

Q. Give us an Account of what you know of this Matter.

Chester. I drove the Chaise, to the *Grey-hound* at *Lakeham*; I went up to young *Eggleston*, and asked him how this unfortunate Thing happen'd; he said he believed it was accidental, for he did not believe any Gentleman in cool Blood would do any such thing wilfully.

Q. Do you know any thing with respect to the Net?

Chester. I think he said Mr. *Annesley* was stooping to in order to take the Net, and the Gun went off.

Q. Did he say any thing how Mr. *Annesley* held the Gun?

Chester. I desired him to shew me how Mr. *Annesley* held the Gun; he took my Whip in his Hand and held it so, (which was much the same Position as *Redding* and *Duffell* said he held it in) I think it was rather nearer the handle than the middle of the Whip that he held it.

Mr. *Brown.* Did you see the Wound?

Chester I understood it was somewhere about the Hip.

Mr. *Brown.* I ask you whether you think he could have shot him there, if he had held the Gun that way?

Chester. I think he could not have shot him there, if he had held it any other way. My Lord, I had forgot to mention one Thing. After this, *Eggleston* spoke to Mr. *Annesley* the Prisoner, and shook Hands with him; and *Eggleston* said he was very sorry for what had happened, but said he did not think he did it designedly, and then drank a Glass of Wine to him.

Court. Did they shake Hands, or drink the Wine first?

Chester. Both at the same Time as near as could be.

Mr. *Brown.* I ask you whether the Prisoner at the Bar is not married to your Daughter-in-law?

Chester. The Prisoner is married to my Daughter-in-law.

Q. They ask this Question in hopes of its being of Service to them in another Affair, for it cannot be of any in this; though I hope he has got a very good Wife.

[*John Patterson* sworn.]

Q. Mr. *Paterson.* I think you did attend the Coroner's Inquest, upon this Occasion; please to give an Account how *Eggleston* behaved then, and what he said.

Mr. *Paterson.* My Lord, on the 4th of *May*, I attended the Coroner's Jury at *Staines*; though, as I had not Time to enquire into the Fact, and prepare for Mr. *Annesley*'s Defence, I could do him but little more Service, than by Cross examining the Witnesses for the Crown, and making Observations on their Evidence; one of the Witnesses was *John Eggleston*, who has been examined here. ———

Court. As to any Thing in his Behaviour you may give Evidence, but not of any Thing that was reduced into writing.

Mr. *Paterson.* I can only speak as to what he said before the Coroner, and I admit the Depositions taken at that Time were reduced into writing by the Coroner or his Clerk.

[The Reverend Mr. *Eusebius Williams* sworn.]

Q. Sir, do you know *John Fisher?*

Williams. Yes.

Q. Had you any Talk with him about *Eggleston*'s being killed?

Williams. *Fisher* told me that *Eggleston* said he did not believe the Gentleman kill'd his Father designedly; but that it was an Accident.

[Mr. *Bethune* call'd.]

Mr. Serj. *Gapper.* My Lord, this is another Person that is brought to contradict the Evidence of *Eggleston*, in what he said with respect to the Position of the Gun.

Prisoner's Council. *Eggleston* said the Gun was pointed downward. Now we shall shew you from the Nature of

of the Wound that it is morally impossible it should be so, for the Wound is slanting upwards.

[*Jaines Bethune* sworn.]

Q. Sir, You are I think a Surgeon at *Brentford*: did you see the Body of this *Eggleſtone* that was kill'd at *Staines*?

Mr. *Bethune.* On *Sunday* after the Accident, my Lord, I happened to be at *Lalebam*, and Sir *Thomas Reynel* gave me Leave to come in and hear the Depoſitions: I was afterwards ſent for by Mr. *Perkins* a Surgeon at *Staines*, to attend the opening of the Body before the Coroner; there were ſeveral of the Coroners Jury in the Room. I found the Wound on the left Side, about an Inch and an Half below the Ridge of the Hip bone; the Wound I apprehend to be about an Inch and an Half wide; I found it went into the Cavity of the Belly.

Q. Did the Wound go upward or downwards into the Belly?

Bethune. When I found it went into the Cavity of the Belly, I remember'd in what Manner *Eggleſtone* held the Gun when he was before Sir *Thomas Reynel*, to ſhew how Mr. *Annesley* held it when he fir'd: I remember very well he held it to his Shoulder ſlanting downward; I attempted to put my Probe into the Wound in the ſame Direction as he deſcribed the Gun, but there was no Paſſage for it in that Poſition, it would not go in downwards; then I put it in this Manner croſs the Belly, and it went in without any Obſtruction, and then upwards, and it went in with the ſame Eaſe, in this Manner. I obſerved ſeveral large Bliſters, full of black Serum on the Right Side, oppoſite the Place where the Shot went in, the Bliſters which were on the oppoſite Side, were three or four Inches higher than where the Wound was, — the Wound was on the left Side, and the Bliſters on the Right; when I found this was ſo plain to me, I deſired it might be as plain to the Jury and every one there, as it was to myſelf, becauſe this was a Matter of Fact and not of Judgment, and I deſired the Foreman to come and put the Probe in and try, he did ſo and found the Wound as I have deſcribed it: I was the more careful in this, becauſe I had

had observed the Evidence that the Boy gave on the *Sunday*, and there was some Variation between that and the Nature of the Wound, therefore I desired them to take the more Notice of it.

Q. What do you think those Blisters on the other Side were occasioned by?

Bethune. I apprehend they were occasioned by the Force of the Powder.

Mr Serj. *Gapper.* According to your Account, could he, holding the Muzzle of the Gun upwards, have made this Wound?

Bethune. It could not have made it with the Muzzle downward.

Q. Did you observe how the Wound was upon the Bone, and whether there were any Shot remaining in the Wound?

Bethune. No Sir, but I found some Shot in the Cavity of the Belly.

Brown. Now the Question is, whether the Shot, coming upon this Bone, might not be thrown upwards?

Bethune. No, for the Shot went through the Bone, so that the Gun must have been held obliquely, pointing upwards; the Shot could not have gone through in that Direction if the Muzzle of the Gun had pointed downwards; this is no Matter of Judgment, but I have given you Demonstration of it.

Mr Serj. *Gapper.* You say the Wound went from the left Side to the Right, and that if the Muzzle of the Gun was downwards, the Wound would be in the same Manner.

Bethune. Certainly Sir, if the Muzzle of the Gun is held downward, the Shot cannot go upward.

Foreman of the Jury. He makes it appear that the Prisoner could not hold the Gun to his Shoulder, but that it was held horizontally, and that it was impossible for him to wound him in the Manner the Boy described, if the Muzzle of the Gun had been pointed downward.

Bethune. I beg leave to speak a few Words more to your Lordship. While I was giving in this Evidence before the Coroner and his Jury, if your Lordship remembers, I said I had shewed them how the Wound was, therefore I desired them to consider how consistent it was with the Evidence that Mr. *Eggleſtone* had given:

I believe I proved it to the Coroner's Jury, and others that were there, that it was impoſſible it could be done in that Manner, if the Gun was held as he ſaid, to his Shoulder; upon that he comes up again, and, ſays he, the Gentleman ſtooped when he did it.

Council for the Priſoner. This ſhews how he departed from what he had ſaid, for he ſaid firſt that Mr. *Anneſley* ſtood upright when he fired, and then that he ſtooped in order to make his Evidence correſpond with the Wound.

[*John Perkins*, Surgeon, ſworn.]

Q. Did you ſee the Body of *Thomas Eggleſtone?*

Perkins. I opened the Body on the 4th of *May*, and on Inſpection, I found one Wound of about an Inch and an Half Diameter: I put in my Probe 7 or 8 Inches, by which and likewiſe upon Inſpection, I found it run horizontal, a little upon the Aſcending: I put my two Fingers into the Cavity of the Bone, and ſhewed the Jury how it was, and obſerv'd on the contrary Side, 4 or 5 Bliſters, which I think to be occaſioned by the Force of the Powder from the other Side; but the Shot did not go through the Skin.

Court. I aſk you whether theſe Bliſters were higher or lower than the Wound?

Mr. *Perkins.* Four or five Inches higher, my Lord.

Mr. *Brown.* Do you think theſe Bliſters were occaſioned by the Shot?

Perkins. I apprehend they were.

[Mr. *King*, the Coroner called again.]

Q. Was any Application made to you at any Time to ſend Mr. *Anneſley* a Priſoner to *Newgate*.

Mr. *King.* Yes, I think it was Mr. *Giffard*, he came along with another Gentleman, whoſe Name I think is *Carrington*.

Q. What, Captain *Carrington?*

Mr. *King.* I believe it was: I ſaid, I think the Gentleman is ſecure enough: (there was a Lord mentioned, but I cannot remember that he deſired it: Mr. *Giffard* wiſely kept him from ſaying who it was) I thought it was too ſevere to ſend him to *Newgate*, and ſaid that Sir *Thomas Reynel* was the Juſtice of Peace who committed him, and he had taken ſufficient Care about it.

[*Paul*

[*Paul Keating* ſworn.]

Do you know any Thing of *Eggleſtone?*

Keating. Yes.

Q. Where did you come acquainted with him?

Keating. At the *White Horſe* in *Piccadilly.*

Q. What Countryman are you?

Keating. I came from *Ireland,* on Board a Merchantman from *Waterford:* I was recommended to the Earl of —— to ſay what I knew, as a Witneſs, about the Eſtate.

Q. How came you to the *White Horſe?*

Keating. There was one *Lawler* that came over in the ſame Ship. When I came to Town, I went and enquired for him at the Earl of ——'s, and he ſent me to the *White Horſe* in *Piccadilly* to live, and there I came acquainted with *Eggleſtone.*

Q. After your Acquaintance, do you remember any Converſation with him, about what he was to have for ſwearing in this Cauſe?

Keat. I do, my Lord, remember mighty well; a little Time after he came to the Inn, he and I got acquainted together, and went out a walking to ſee the Town, and particularly on a *Sunday* Morning; the *Sunday* after he came to *Piccadilly:* I believe it was the ſecond *Sunday* in *May;* as we were walking abroad, I aſked him how he came to live there, ſays he, I am here at the Expence of the Earl of——

Court. This is not proper: If you can call any Body to contradict *Eggleſtone* you may, but this is reflecting upon a noble Perſon's Character.

Q. Did he tell you how he came to be at that Inn?

Keat. He told me that Mr. *Williams,* who keeps the *White Horſe,* brought him from *Staines,* and that he ſhould be very well provided for, if he would proſecute this Gentleman, who is now in Cuſtody, for this Murder, and he deſired I might contrive ſome Way that he might get the Money ſecured, and I wrote two or three Draughts of Notes for 200 *l.* and he took Copies of them.

Q. How came he to take Copies of them?

Keat. Becauſe I did not care my Hand ſhould be known. I have a Copy of one of them in my Pocket. [Reads.]

I Promiſe to pay to Mr. *Thomas Eggleſtone* [that is his elder Brother] or his Order, at or upon the 10th

Day of *June* next, the Sum of 100*l.* Sterling, for Value received from his deceased Father, and him, in Carpenter's Work, *&c.* Witness my Hand the 10th Day of *May* 1742.

This was to be signed either by *Williams* or my Lord.—

Q. Have you ever seen the Earl of— at the *Whitehorse*?

Keat. He is there often.

Q. What has the Earl of —— any Thing to do there?

Keat. His Coach and Horses are kept there.

Q. How long have they stood there?

Keat. They stand there constantly.

Mr. Serj. *Gapper.* What was that Note for?

Keat. It is only a Copy of what I wrote for *Egglestone*, for as I told the Court before, I did not care that my Hand should be seen in any such Thing as Bribery and Corruption.

The Evidence for the Prisoners being gone through.

Court. If the Jury should be of Opinion that the Gun went off by Accident, the Homicide must, in Point of Law, be either Manslaughter or Chance medley; I should be glad in that Case to make it Chance medley; but in Order to that it must appear, that what Mr. *Annesley* was doing, was perfectly lawful, otherwise he will be guilty of Manslaughter.

The other Prisoner, *Redding*, had certainly, by Virtue of his Deputation, and by Force of the Acts of Parliament made for the Preservation of the Game, Authority to seize the deceased, who was clearly acting in Violation of those Laws. But it is doubtful whether the Authority of a Game-keeper being personal, the other Prisoner acted lawfully in assisting him.

The Substance of the Arguments by the Council for the Prisoners, (viz. *Mr.* Hume Campbell, *Mr. Serj.* Hayward, *Mr.* Clarke, *Mr.* Wyrley, *and Mr.* Smith) *was as follows:*

My Lord, we humbly submit to the Court, whether Mr. *Annesley*'s catching at the String of the Net will alter the Nature of the Consequence, and make that Manslaughter, which in Fact was only an unfortunate Accident.

We apprehend it unnecessary, my Lord, to prove that Mr. *Annesley* was then legally employ'd; if it was only indif-

indifferently, we hope it ſufficient to excuſe him from the Guilt of Manſlaughter.

If a Man throws a Stone into a Place of publick Reſort, and kills another, that will be Manſlaughter, becauſe the Act itſelf was unlawful.

But if a Man is playing at Bowls, and undeſignedly kills another, as this is of an indifferent Nature, the Accident is not imputed to it as a Crime.

Mr. *Anneſley*'s entring the Cloſe of *Sylveſter* was an Act of an indifferent Nature with reſpect to the Deceaſed, who had no more Right to be there than Mr. *Anneſley*, unleſs you will ſuppoſe him to have had the Owner's Conſent, which, as it was not proved, may alſo be ſuppoſed in Favour of the Priſoner.

The young Man's Evidence being put out of the Caſe, (and conſidering how he has been contradicted by himſelf and others, what he ſays ſtands for nothing) Mr. *Anneſley* was no more than ſtooping to prevent the String of the Net from falling into the River; in doing of which, ſuppoſe a Piſtol had gone off in his Pocket, would it not be the hardeſt Caſe in the World, thereby to make him guilty of Manſlaughter?

But allowing it neceſſary that the Act Mr. *Anneſley* was doing muſt be lawful, we hope to ſhew your Lordſhip that Mr. *Anneſley*'s Interpoſition in this Caſe was ſo.

There are two Acts of Parliament relating to the Game, applicable to this Caſe; the one made in the 22d and 23d Years of *Charles* II. Chap. 25. and the other in the 4th and 5th Years of *William* and *Mary*, Chap. 23.

The firſt recites that divers diſorderly Perſons betake themſelves to the ſtealing of Game, with Nets and other Engines.

For Remedy whereof it enacts, That all Lords of Manors may, by Writing under their Hands and Seals, authorize all Game-keepers to ſeize ſuch Nets as ſhall be uſed by any Perſon prohibited to keep or uſe the ſame.

Then it recites, that divers idle and mean People, do ſteal Fiſh out of ſeveral Waters and Rivers, to the great Damage of the Owners thereof.

Therefore it enacts, that if any Perſon ſhall uſe a Caſting-Net in any River, *&c.* without the Conſent of the Lord or Owner of the ſaid Water; and being convicted before any Juſtice of the Peace, ſhall give the Owner

Owner such Satisfaction (not exceeding treble Damages) as the Justice shall appoint, or be committed to the House of Correction. And that the Justice shall destroy all such Nets.

The other Act of Parliament recites, that divers necessary Laws had been made for Preservation of the Game; notwithstanding which, the Game had been very much destroyed by many idle Persons, who afterwards betake themselves to Burglaries, or other like Offences, and neglect their lawful Employments.

For Remedy whereof it enacts, That no Person shall have or keep any Net for taking of Fish, except the Owner or Occupier of a River or Fishery. And that it shall be lawful for such Owner or Occupier, and every other Person, by him or them, for that Purpose appointed, to seize, and keep, to his own Use, every Net or Engine which they shall find used by any Person whatsoever, Fishing in any River without the Consent of the Owner.

The Question which we are to argue, is, whether a Person duly authorized under these Acts of Parliament, being resisted in the Execution of his Office, can legally call any other Person to his Assistance.

Your Lordship will consider we are arguing in Favour of Life, and therefore will construe these Laws in the most beneficial Manner for the Prisoner, and the rather, because such Construction will tend to secure Men in their Property from the Violation of disorderly Persons.

These Acts suppose the Offenders to be desperate People, for it describes them to be such as betake themselves to Robberies and Burglaries, and that they go in Numbers to destroy the Game.

That Circumstance seems to imply that a Game-keeper, or other Person duly appointed, may, in such Cases, call in other Persons to his Assistance.

To construe the Law otherwise, would render it ineffectual, for it is absurd to suppose, that every Lord of a Manor should appoint as many Game-keepers as there may be Persons to invade his Property. This would defeat the Security intended by the Law, and can never be agreeable to the Meaning of the Legislators.

As these are late Acts of Parliament, we cannot produce Cases directly in Point of those Acts in this Question.

But

But ſuppoſe upon ſome of the Acts of Parliament made againſt Smugglers, an Officer of the Revenue, being reſiſted in the Execution of his Office, calls in other Perſons in the Neighbourhood to his Aſſiſtance, and Miſchief or Death enſues; might not thoſe Perſons be juſtified in what they do, for the manifeſt Support and Execution of the Law?

A Man has a Right to drive away Cattle that damage his Ground. Suppoſe he deſires a Stranger to aſſiſt him, could the Owner of the Cattle maintain an Action againſt the Stranger for that Treſpaſs?

Suppoſe the Deceaſed had not been killed, and had brought an Action for an Aſſault, might not the Defendants (one of which was Game-keeper) have pleaded ſpecially, and juſtified under the Act of Parliament? And ſurely, what in Pleading would have been a Juſtification, in this caſe will be a ſufficient Excuſe.

But in all Caſes where the Law makes Offences puniſhable by Juſtices of the Peace, whoever ſees a Perſon committing ſuch an Offence, has a Right, without any ſpecial Authority, to take him up, and carry him before a Juſtice. If this was not Law, Offenders would eſcape with Impunity; for being diſcovered, they would hardly ſtay till the Obſerver could reſort to a proper Authority.

Even the young Man, who was ſo very forward, admits that his Father and he were committing an Offence againſt theſe Acts of Parliament.

Therefore, we hope Mr. *Anneſley* was well warranted to go to Mr. *Redding*'s Aſſiſtance, and that the Accidents that happen'd ſhall not be imputed to him as a Crime, but conſtrued to be Chance-Medley.

The Subſtance of the Arguments by the Council for the Proſecutor, viz. *Mr. Serjeant* Gapper, *Mr. Serjeant* Wynne, *Mr.* Brown, *and Mr.* Johnſon, *was as follows.*

My Lord, the Council for the Priſoners have undertaken to juſtify under two Acts of Parliament.

As to the 22d and 23d of *Charles* II. we beg Leave to obſerve, that the Clauſe empowering Lords of Manors to appoint Game-keepers with Authority to ſeize Nets, does not extend to Fiſheries. The Clauſe which relates to Fiſhing, only directs that the Offenders ſhall be puniſhed upon Conviction before a Juſtice of Peace, but does

not

not empower any one to seize either them or their Nets.

As to the other Act of Parliament, the 4th and 5th of *William* and *Mary*, that no ways relates to Game-keepers, but only empowers the Owners or Occupiers of Fisheries, or Persons by them for that Purpose appointed, to seize the Nets; so that this Power is confined to old *Redding* himself, and it does not appear he has appointed either of the Prisoners, and therefore, as they had no Authority at all, they were Trespassers, and must answer for the Consequences.

As to the liberal Construction of the Acts of Parliament, which the Gentlemen contend for, we say that at the Common Law, every Man had a Right to fish in Rivers; but no Man may claim a Right to come and search another's House for Nets for destroying of Game. What Murders, besides other Inconveniencies, must be the Consequence of such an unlimited Power, we leave all the World to judge.

We admit that this is a new Case, but insist that the Prisoners, at least Mr. *Annesley*, having been Wrong-doers, must answer for the Consequence, which being the Death of one of his Majesty's Subjects, make them guilty of Manslaughter, supposing the Gun went off by Accident.

Then Mr. *Hume Cambell* said in Reply.

My Lord, I beg leave to trouble you with a few Words, on behalf of the unhappy Gentleman.

If that Consequence was the Motive for the Charge, he may rely upon the Justice of this Court as his Security; to your Justice he has surrender'd himself.

In arguing the Point now before the Court, I may take it for granted, that the Gun went off by Accident, without Mr. *Annesley*'s knowing it; and only consider whether his interposing to assist *Redding* was or was not lawful.

My Lord, I take it for a general Rule, that all Persons on request are bound by their Duty and Allegiance, to assist legal Officers in the Execution of their Duty.

I shall not repeat any of the Evidence; the Court will remember that a Request of the Game-keeper's, or what amounts to such, has been prov'd.

A Game keeper is a legal Officer, particularly appointed under the Acts of Parliament for the Preservation of the Game; he is for that purpose fully empowered to put the

the Laws relating to the Game, in Execution: No-body can legally reſiſt him; and conſequently the Deceaſed and his Son were doubly criminal; firſt in breaking the Law, and then in reſiſting the legal Officer, who came to put that Law in force.

What did Mr. *Anneſley* do in this Caſe? he ſtooped to take up the Net which the Deceaſed had unlawfully thrown into the Water, to prevent the Game-keeper from ſeizing it.

Eggleſtone had abandoned it; and will any one maintain, that when a Treſpaſſer throws away the Inſtrument of his Crime, it is unlawful in another Perſon to take it up?

They ſay a Man may as well go every Day into People's Houſes, under pretence of ſearching for Nets, &c. No, they cannot do that by the Law, every Man's Houſe is his Caſtle; and the Law has provided that he ſhall not be moleſted there without a ſpecial Authority. Nor is there the ſame Reaſon for that, as there is for ſeizing Offenders in the actual Commiſſion of the Offence. The very Caſe they put, implies the Offender may be found and come at by the Ordinary Forms; but in the other, he may not be known, and will hardly ſtay till you apply for a Warrant to apprehend him.

So that the Neceſſity of the Thing makes that Reaſonable and Lawful in the one Caſe, which, for want of that Neceſſity, is not ſo in the other.

That a ſpecial Authority, my Lord, is not neceſſary in all Caſes, will hardly be diſputed; a Conſtable, if the Law is broke in his Preſence, may by Virtue of his general Power take Cognizance of the Offence, and arreſt the Offender.

In the preſent Caſe the Game-keeper who is a legal Officer, and in Nature of a Conſtable for this particular Purpoſe, ſaw the Deceaſed a fiſhing, and conſequently had a right without any ſpecial Warrant to ſeize him, and when reſiſted, to call Mr. *Anneſley* to his Aſſiſtance.

It is ſaid, the Acts of Parliament are an Abridgment of the common Law, and therefore ſhould be conſtrued ſtrictly. My Lord, no Man, by the common Law, had a Right to fiſh in another's Property. It was an Offence at the common Law; it is *Malum in ſe*; and the Statutes, that have been mention'd, only make that Offence puniſhable by a Juſtice of Peace; as they tend therefore to ſecure the Property which a Man had at the common Law, they are an Addition to the common Law, fixing a Puniſhment

nishment for the Breach of Law; and therefore to be conſtrued, as will beſt anſwer ſo ſalutary an End.

If it is a new Caſe, as the Gentlemen ſeem to lay a Streſs upon it, let us conſider what will be the Conſequence of your Lordſhip's Determination if it ſhould be againſt us.

The Law, my Lord, I apprehend, will become vain and idle; for if Offenders get together in any Number, it will be impoſſible for a Game keeper to reſtrain them.

At moſt, my Lord, it could be only an imprudent Act in *Mr. Annesley* to interpoſe, but we hope your Lordſhip will not conſtrue it to be ſuch an unlawful Act, as will make him a Treſpaſſer, and ſo guilty of Manſlaughter.

Your Lordſhip will pleaſe to obſerve, that it depends entirely on the Credit of *Eggleſtone*, whether this Gentleman did any thing or not. Before your Lordſhip directs the Jury as to this, it is my Duty to acquaint your Lordſhip, that there is an Indictment on the Coroner's Inqueſt, and likewiſe an Indictment on the Black Act againſt the Priſoner Mr. *Annesley*.

Mr. Serj. *Gapper*. My Lord, we deſire to call ſome Evidence to ſupport the Character of *John Eggleſtone*.

L. For what? we have called no Witneſs to impeach it.

Court. Have you not examined every Witneſs that has appeared to the Boy's Character?

[*John Gardner* ſworn.]

Mr. Serj. *Wynne*. Do you know this young *Eggleſtone*?

Gardner. Yes. I have known him ſeven or eight Years.

Mr. Serj. *Wynne*. What is he as to his Honeſty and Veracity?

Gardner. He is like other Boys, ſometimes good, and ſometimes indifferent.

Mr. Serj. *Wynne*. I do not mean as to a little Unthinkneſs: Do you think from his natural Behaviour he would forſwear himſelf?

Gardner. No, I do not think that he would.

[*Thomas Sylveſter* ſworn.]

Mr. Serj. *Wynne*. Do you know this *Eggleſtone*?

Sylveſter. Yes, I have known him about three Years.

Mr. Serj. *Wynne*. Do you think he would forſwear himſelf?

Sylveſter. No, I do not think he would.

[*Samuel Sylveſter* called.]

Mr. Serj. *Wynne*. How long have you known this Boy.

Samuel Sylveſter. I have known this Boy a good while.

Mr.

Mr. Serj. *Wynne*. What is his general Character. Do you think he would forswear himself?

Samuel Sylvester. I have had no Conversation with him, so I do not know what he is.

[*William Palmer* sworn.]

Mr. Serj. *Wynne*. Do you know young *Egglestone*?

Palmer. Yes.

Mr. Serj. *Wynne*. How long have you known him?

Palmer. I have known him as long as I have known any Person of his Age: He came of very honest Parents.

Mr. Serj. *Wynne*. Do you think he would forswear himself?

Palmer. I do not think he would?

Q. Upon your Oath, do not you think he is much addicted to lying?

Palmer. Why, that is not taking a false Oath.

[*Patrick Lawler* sworn.]

Mr. Serj. *Wynne*. Do you know *Paul Keating*?

Lawler. I have known him ever since the 18th of *March* last.

Q. What is his general Character?

Lawler. I do not know that: But he has behaved very bad of late.

Q. Did you never offer him any Money not to appear at this Trial?

Lawler. No, not I: But he said he would give them a Rowland for their Oliver, if they did not give him Money?

Q. Why surely my Lord is not concerned in this Prosecution! But pray, Sir, how came you and he acquainted.

Lawler. This *Keating* and I came together from *Ireland* in the same Ship, he told me there were some Evidences on Board that were coming over to swear away my Lord's Estate; said he, there are three Women and two Men, and I have discovered the whole Thing; how they are bribed to come here, and if I come to *London*, said he, I will give my Lord —— an Account of it.

Q. Pray, Sir, tell us what became of *Keating* when he came to Town?

Lawler. Soon after he arrived he found me out and so I told Mr. *Yam*, I thought he might depend upon

this Man, because I had seen him in *Bristol*; said I, I speak to you about this Man, out of Charity, for he is very Poor; then says Mr. *Evans*, let him go to the *White-Horse* in *Piccadilly*; and then he wanted Cloaths and Money; and, says he, if they do not give me Cloaths and Money, I will swear that the Earl of ——— was to give a Note to young *Egglestone*, to swear upon this Trial.

Then the Court proceeded to sum up the Evidence as follows:

Gentlemen of the Jury, the Prisoners at the Bar, *James Annesley* and *Joseph Redding*, stand indicted for the wilful Murder of *Thomas Egglestone*; the Indictment sets forth that *Annesley* fired the Gun, and gave the Wound, and that *Redding* was assisting in the doing of it: The first Evidence is *John Egglestone*, he says his Father and he went a Fishing up the River till they came to *Samuel Sylvester*'s Ground, that they had a Net, and the String of the Net was about his Father's Arm; when they saw the Prisoners, *Redding* came up first, and went to lay hold of the Net, and his Father threw the Net into the River, about two Yards from him; and that *Annesley* then came up and said, *Damn your Blood, deliver your Net, or you are a dead Man*, and fired directly; and that he Shot him near the bottom of the Belly on the left Side; that he, the Witness, took a Knife out of his Pocket to cut the String of the Net from his Father's Arm, and leaped into the River, and dragged the Net to the other Side of the River, that he saw *Bettesworth*, *Fisher*, and *Bowles*, on the other Side of the River; and told them he believed his Father was dead; that they came over the River and advised him to get a Surgeon; he says the Gun was cock'd, but he can't tell when he cock'd it: He says Sir *Thomas Reynell* came into *Hounslow* while they were there, and that by his Order they went to the *Grey-Hound* at *Lalebain*; and that one *Lane*, *Chester*'s Son-in-Law, offer'd him 100 *l.* a Year; that Mr. *Annesley* said he had not 100 *l.* a Year to give him; for he had more to provide for; but he might have 50 *l.* a Year if he would not come against him; he said he had no Conversation with one *Duffel*, but that he had with *Dalton*; he says, he has sometimes dined at *Williams*'s Table; and, that he did not tell *Paul Keating*, he was to have 200 *l.*

The

The next Witneſs that is produced is *John Betteſworth*; he ſays, that *Eggleſton* and his Son were in *Sylveſter's* Ground, and he ſaw the Priſoners run after them: He ſays, that the Gun went off ſoon after Mr. *Anneſley* came up to old *Eggleſtone*; he ſays, he ſaw the Smoak and Fire of the Gun. He ſays, he and *Fiſher* and *Bowles* croſſed the Water; and that *Anneſley* and *Redding* ran away; that *Eggleſtone* was not quite Dead when he came over, but was not able to ſpeak; and ſays, he ſaw the Net on the other Side of the River: He ſays, that when Mr. *Anneſley* was taken, he ſaid, he wiſhed to be kill'd, for being inſtrumental in the taking away an innocent Man's Life.

John Fiſher is call'd next; he ſays, he ſaw young *Redding* in the Ground with another Man; and that he ſaw them running after *Eggleſtone* and his Son; that *Redding* laid his Hand, he thinks, on *Eggleſtone's* Shoulder, and there was a ſort of a Scuffle between them; and he that carried the Gun, carried it in a form to ſhoot; and was very nigh *Eggleſtone* when the Gun went off: And he ſays, he ſaw *Joſeph Redding*, and the other Man, go away; and he ſays, he was at this time 169 Yards off. It ſeems the Ground has been ſince meaſured; he ſays, *Eggleſtone* had Money offered him in his hearing; he would have had a Hundred a Year; but Mr. *Anneſley* ſaid, he could not give an Hundred a Year: But he would give him Fifty; and that *Eggleſtone* ſaid, he would not ſell his Father's Blood; but believed the Gentleman did not do it wilfully.

The next Witneſs is *Samuel Sylveſter*; and he ſays, when Mr. *Anneſley* came out of that Place, where he was found, he trembled very much.

This is the ſubſtance of the Evidence for the Proſecutor.

The Priſoner Mr. *Anneſley*, in his own Defence, ſays, that he is very ſorry for what has happened; that theſe Perſons were Poaching in the Manour that belongs to Sir *John Dolben*; that they did go up to them, and he had a Gun in his Hand, which went off by Accident. The other Priſoner *Redding*, ſays, he is Game keeper to Sir *John Dolben*; that he ſaw theſe Men Fiſhing, and went to take the Net, that he heard the Gun go off, and ſaw the Man fall down, and then he ſaid to Mr. *Anneſley*, Lord bleſs me, I hope you have not killed the Man; and that it was done accidentally. To

To prove their Caſe, they called the following Witneſſes. The firſt is,

Mr. *Stapley*, he ſays, this is Sir *John Dolben*'s Manor, and that he has held Courts there.

The next Witneſs, Gentlemen, was, *Thomas Burlingſh*, and he proves a Deputation of the ſecond of *July* 1741, from Sir *John Dolben* to *Joſeph Redding*, the younger.

Then *Redding*, the Father of *Joſeph Redding* is called, and he ſays, that he himſelf was in *Chantry Mead*, when this Accident happened; that when he came up to them, his Son ſaid, he was afraid the Man was kill'd, he ſays, they ſeemed very much concerned; being aſked the Poſition of the Gun when it went off, he ſays, Mr. *Anneſley* held the Gun in one Hand, and that it hung down by his Side.

The next Witneſs, Gentlemen, is *William Duffil*; and he ſays, ſome Hours after the Accident happened, *John Eggleſtone* came into his Houſe; and ſaid, that *Redding* came up to his Father, and demanded the Net, and that his Father ſaid he ſhould not have it, and threw it into the River; that then Mr. *Anneſley* came up, and the Gun went off, and his Father was ſhot. He ſays, that *Abraham Eggleſtone* particularly aſked him whether he ſaw Mr. *Anneſley* pull the Trigger of the Gun, and that he ſaid he could not tell; that then he aſked him if there were any Words between them, and he ſaid, no; that then this Witneſs ſaid, it was a ſtrange Thing that Mr. *Anneſley* ſhould ſhoot his Father, and have no Words with him; that being aſked in what Manner the Gun was held, *Eggleſtone* with a Stick which he had in his Hand, ſhewed them in what Manner Mr. *Anneſley* held the Gun; he ſays the Stick was in his Hand, hanging down by his Side. He ſays, that *Eggleſtone* then was aſked, if he thought *Anneſley* did it wilfully, and that he ſaid he could not tell. Being aſked as to the Boy's Character; he ſays he has but an indifferent Character; and has heard his Father often complain of him.

The next Evidence is *John Dalton*; and he ſays, that *Eggleſtone* told him, he believed it was an Accident, and not done deſignedly. He ſays the Boy has but an indifferent Character, but believes he would not forſwear himſelf.

The next Witneſs is *Richard Cheſter*, and he ſays, that he talked with the Boy at *Lambeth*, and that he ſaid he believed it was an Accident; for he did not believe any

Gen-

Gentleman in cool Blood would designedly shoot another.

Mr. *Patrſon* was then called, to prove what the Boy ſaid before the Coroner; but his Examination being taken down in Writing, I did not think proper to allow of parole Evidence.

Then Mr. *King*, the Coroner, was called; and he produced the Minutes of the Depoſitions, taken the 4th of *May* at *Lakeham*, before the Inqueſt.

Then *James Bethune* is produced, who examined and probed the Wound; and he ſays it was an Inch and an half below the Ridge of the Hip-Bone, and an Inch and half wide; and that when he put his Inſtrument downwards, it would not go in; but it would go in when the Probe was put upwards, or a-croſs the Belly.

Mr. *King* ſays, that Mr. *Giffard*, who is the Sollicitor in this Proſecution, made Application to him to commit Mr. *Anneſley* to *Newgate*; but he thought Sir *Thomas Reynell* had taken ſufficient Care of him.

Paul Keating ſays, he became acquainted with *Eggleſtone* at the *White Horſe* in *Piccadilly*, which is kept by one *Williams*; and that he, at *Eggleſtone*'s Deſire, drew a Note of 200 *l.* for him, and that the Boy, *Eggleſtone*, took a Copy of it.

Gentlemen, this is the Evidence given in Behalf of the Priſoners; and there has been Evidence given, to ſupport the Character of *John Eggleſtone*.

Patrick Lawler, ſays, he has known *Paul Keating* ſince the 18th of *March*; that becauſe he could not be ſupplied with Cloaths, as he expected, he was to ſwear that the Earl of—— was to give a Note to young *Eggleſtone*.

This is the State of the Evidence on both Sides.

Now Gentlemen, you are to conſider, whether the Fact is Murder, Manſlaughter, or Chance-Medley: Murder, Gentlemen, in Point of Law, is, when a Perſon kills another with expreſs Malice and Deſign, or with implied Malice, as when it is without any Offence or Provocation, but if there is a ſudden Fray, and in that Fray and Heat of Blood, a Perſon is killed, that is Manſlaughter; now there are ſeveral Things in the Courſe of the Evidence proper to come under your Conſideration; you will obſerve that *Eggleſtone* ſwears, Mr. *Anneſley* ſaid, damn your Blood deliver your Net, or you are a dead Man, and immediately the Gun went off, and the Man was ſhot; if

if he let the Gun off designedly, if this was the Case, though on a sudden, he can be guilty of no less than Manslaughter; but then you will consider what different things the Boy has said; he has declared several Times, he did not believe he did it designedly; according to what the Surgeons say, it is not probable to me, that this Wound could be given in the Situation he says Mr. *Annesley* was in. Gentlemen, as I said before, the Question you are to consider of, is, whether this is Manslaughter, or Chance-Medley in Mr. *Annesley*; for as to *Redding*, he must certainly be acquitted; and as to Murder, I cannot think there is any Evidence to make Mr. *Annesley* guilty of that; but as there was some hot Blood, there may be reason to consider, whether it is not Manslaughter; on the other Hand, if Mr. *Annesley* was carrying his Gun by his Side, and it went off accidentally, then it will be Chance-Medley.

Clerk of the Arraigns. Gentlemen of the Jury, are you agreed in your Verdicts?

Jury. Yes.

Clerk of the Arraigns. Who shall say for you?

Jury. Our Foreman.

Clerk of the Arraigns. *James Annesley*, hold up your Hand.—*Joseph Redding*, hold up your Hand.—Gentlemen of the Jury, look upon the Prisoners. How say you, is *James Annesley* and *Joseph Redding* guilty of Felony and Murder, of the Coroner's Inquisition for the same, or of wilfully shooting against the Form of the Statute.

Foreman of the Jury. Not guilty of Murder, but guilty of Chance-Medley.

Clerk of the Arraigns. Gentlemen of the Jury, hearken to your Verdicts, as the Court has recorded them. You say that *James Annesley* is not guilty of the Felony and Murder whereof he stands indicted, but is guilty of Chance-medley.

You say that *Joseph Redding* is not guilty of the same Felony and Murder whereof he stands indicted, but is guilty of Chance-Medley.

You say the same upon the Coroner's Inquisition.

You also say that the said *James Annesley* is not guilty of maliciously shooting at *Thomas Eggleston*, against the Form of the Statute, and so you say All.

F I N I S.

AP ACW OBt
The trial at bar between Campb
Stanford Law Library
3 6105 044 060 940